

**In The Matter Of:**  
*Coastal Resources Management*

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*Semi-Monthly Meeting*  
*June 2, 2021*

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*Rebecca J. Forte*  
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Semi-Monthly Meeting - June 2, 2021

STATE OF RHODE ISLAND  
COASTAL RESOURCES MANAGEMENT COUNCIL

\* \* \* \* \*

IN RE: SEMIMONTHLY MEETING VIA ZOOM

\* \* \* \* \*

Date: June 2, 2021  
Time: 5:00 p.m.  
Place: Via Zoom  
Providence, RI

MEMBERS PRESENT

Jennifer Cervenka, Chairwoman  
Raymond C. Coia, Vice Chair  
Donald T. Gomez  
Jerry Sahagian  
Patricia Reynolds  
Ronald Gagnon, DEM  
Lindsay McGovern

Anthony DeSisto, Esquire, Legal Counsel

STAFF PRESENT

Jeff Willis, Executive Director  
James Boyd, Deputy Director  
Ryan Moore, Moderator  
Lisa Turner, Recording Secretary

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I N D E X

DISCUSSION AND ACTION ON FEDERAL CONSISTENCY  
DECISION FOR SOUTH FORK WIND, LLC COASTAL ZONE  
MANAGEMENT ACT CONSISTENCY CERTIFICATION; CRMC FILE  
2018-10-082; OFFSHORE WIND ENERGY FACILITY IN  
FEDERAL WATERS

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1 (MEETING COMMENCED AT 5:09 P.M.)

2 CHAIRWOMAN CERVENKA: I'll call this  
3 meeting to order. This is a meeting of the  
4 Rhode Island Coastal Resources Management Council.  
5 Today's date is June 2, 2021. The time is  
6 5:09 p.m. For Council members here tonight we have  
7 myself, Jennifer Cervenka, Chair. Ray Coia, our  
8 Vice Chair.

9 VICE CHAIRMAN COIA: Ray Coia is present.

10 CHAIRWOMAN CERVENKA: Don Gomez.

11 MR. GOMEZ: Gomez, present.

12 CHAIRWOMAN CERVENKA: Jerry Sahagian.

13 MR. SAHAGIAN: Present.

14 CHAIRWOMAN CERVENKA: Patricia Reynolds.

15 MS. REYNOLDS: Reynolds present.

16 CHAIRWOMAN CERVENKA: Ron Gagnon.

17 MR. GAGNON: Ron Gagnon, present.

18 CHAIRWOMAN CERVENKA: And

19 Lindsay McGovern.

20 MS. McGOVERN: Lindsay McGovern, present.

21 CHAIRWOMAN CERVENKA: Okay. And for staff  
22 we have Jeff Willis, our executive director.

23 MR. WILLIS: Present.

24 CHAIRWOMAN CERVENKA: James Boyd, our

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1 deputy director.

2 MR. BOYD: Present, Madam Chair.

3 CHAIRWOMAN CERVENKA: Tony DeSisto, our  
4 chief legal counsel.

5 MR. DeSISTO: Present, Madam Chair.

6 CHAIRWOMAN CERVENKA: Lisa Turner, our  
7 recording secretary.

8 MS. TURNER: Present, Madam Chair.

9 CHAIRWOMAN CERVENKA: Ryan Moore, our  
10 moderator.

11 MR. MOORE: Present, Madam Chair.

12 CHAIRWOMAN CERVENKA: And Cindy Tangney,  
13 our court reporter.

14 MS. TANGNEY: Present.

15 CHAIRWOMAN CERVENKA: Thank you.

16 Mr. Moore, I know that you reviewed the rules of  
17 the Zoom format last time, but in case there are  
18 new attendees here, I'd like you to review that for  
19 the whole group again tonight, if you would.

20 MR. MOORE: Absolutely. This is the  
21 Coastal Resources Management Council Virtual  
22 Semimonthly Meeting, 6/2/2021, conducted in  
23 accordance with Executive Order 21-40,  
24 One Hundred and Forty-Third Supplemental Emergency

1 Declaration Extension of Executive Orders.

2 If you're having problems with your computer  
3 audio, please use the call-in number for this  
4 meeting. The meeting ID, password, and the phone  
5 numbers for this meeting will be put in the chat  
6 box after this presentation.

7 A note to meeting participants and attendees,  
8 please be advised this is an online meeting,  
9 including all audio, video, names, and comments  
10 visible in the chat box are being recorded. All  
11 members of the public who wish to comment during  
12 these proceedings must correctly identify  
13 themselves by first and last name before  
14 proceeding.

15 Council members, applicants, and CRMC staff,  
16 please keep your video on. Do not use phone and  
17 computer audio at the same time. Raise your hand  
18 or use the "raise hand" button to be recognized by  
19 the Chair. Identify yourself by first and last  
20 name.

21 Members of the public, please keep your video  
22 off and mute your microphone when not speaking.  
23 Use the "raise hand" function to be recognized by  
24 the Chair. Wait to be recognized by the Chair and

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1 unmuted by the moderator to speak. Identify  
2 yourself by first and last name.

3 For those on the phone, please press star 9 to  
4 use the "raise hand" function. When recognized,  
5 identify yourself by first and last name. Thank  
6 you.

7 CHAIRWOMAN CERVENKA: Thank you,  
8 Mr. Moore.

9 First on the agenda is the approval of the  
10 minutes of May 25, 2021. Those were circulated  
11 earlier by Ms. Turner. Mr. Gagnon.

12 MR. GAGNON: I have a correction.

13 CHAIRWOMAN CERVENKA: Yes.

14 MR. GAGNON: For the vote that was taken  
15 at the end of the meeting on the motion for the  
16 parties to have a meeting, I did vote aye on that,  
17 not no.

18 CHAIRWOMAN CERVENKA: Yeah, that's  
19 correct.

20 MS. TURNER: Thank you, Ron.

21 CHAIRWOMAN CERVENKA: Okay. Any other  
22 revisions, changes?

23 (NO RESPONSE)

24 CHAIRWOMAN CERVENKA: With that

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1 correction, I'll entertain a motion to approve.

2 VICE CHAIRMAN COIA: Madam Chair, Ray Coia  
3 moves approval with that correction.

4 CHAIRWOMAN CERVENKA: Thank you, Mr. Coia.  
5 Is there a second?

6 MR. SAHAGIAN: Second, Jerry Sahagian.

7 CHAIRWOMAN CERVENKA: Thank you,  
8 Mr. Sahagian. I'll do a roll call vote to approve  
9 the minutes as revised. Ray Coia?

10 VICE CHAIRMAN COIA: Ray Coia votes aye.

11 CHAIRWOMAN CERVENKA: Don Gomez?

12 MR. GOMEZ: Gomez, aye.

13 CHAIRWOMAN CERVENKA: Jerry Sahagian?

14 MR. SAHAGIAN: Sahagian, aye.

15 CHAIRWOMAN CERVENKA: Patricia Reynolds?

16 MS. REYNOLDS: Reynolds, aye.

17 CHAIRWOMAN CERVENKA: Ron Gagnon?

18 MR. GAGNON: Gagnon, aye.

19 CHAIRWOMAN CERVENKA: Lindsay McGovern?

20 MS. McGOVERN: Lindsay McGovern, aye.

21 CHAIRWOMAN CERVENKA: And myself,

22 Jennifer Cervenka, aye. The minutes of

23 May 25, 2021, are approved.

24 There are -- I don't believe there's any

1 subcommittee reports or staff reports that you'd  
2 like to present, Jeff and Jim. Okay. Thank you.

3 So we will move on to our main purpose of  
4 today's meeting. This is a continued meeting on  
5 the discussion and action on federal consistency  
6 for South Fork Wind for an offshore wind energy  
7 facility in federal waters. We ended our last  
8 meeting with the presentation from the FAB; we had  
9 a presentation from the developer, South Fork Wind;  
10 our staff report; but we did not get to public  
11 comment and certainly to our deliberations. So we  
12 continued it for those two purposes for public  
13 comment and then our vote.

14 Since the last meeting, May 25, there's been  
15 some further clarification of the position of the  
16 parties. There was a meeting, and as a result of  
17 that, an addendum to the staff report was issued  
18 today. And I'd like to start with Mr. Boyd  
19 explaining what happened from last meeting to  
20 tonight with respect to the parties and maybe some  
21 clarification, and then his -- staffs' new or  
22 revised recommendation. Mr. Willis, am I saying  
23 this wrong?

24 MR. WILLIS: No, you're saying it fine,

1 Madam Chair. I would just like to have a brief  
2 introduction, and then we can pass it off to Jim.

3 CHAIRWOMAN CERVENKA: Okay, yeah. And so  
4 we'll have a brief introduction, Jeff, from you  
5 and -- I mean, Jeff from you, and then, Jim, you'll  
6 present the addendum?

7 MR. WILLIS: Yes, that's correct.

8 CHAIRWOMAN CERVENKA: And then, following  
9 that, I'd like to do a brief response, as in  
10 10 to 15 minutes, from South Fork Wind, and then  
11 one from the FAB. I'd like there just to be one  
12 person that gives a concise response that's limited  
13 to the new elements that's presented in the  
14 addendum.

15 Following that, we'll have public comment.  
16 And at our last meeting, we had identified 13  
17 people who wanted to speak who had raised their  
18 virtual hands. Those 13 people are on a list. We  
19 understand that there may be some additional people  
20 that want to speak tonight. And if that's the  
21 case, while we're going through the addendum and  
22 some additional presentation, I'd like anyone and  
23 everyone who wants to speak to raise their virtual  
24 hand so that our moderator, Mr. Moore, can take

1 down your names, and then we can determine, based  
2 on the number, how many minutes each person is  
3 going to be limited to. We do want to move through  
4 the public comments efficiently. If you can, if  
5 it's applicable, I'd like you to speak to your  
6 personal knowledge and experience.

7 So, for example, if you're a fisherman and you  
8 fish in the proposed lease area, I'd like you to  
9 speak to that. If you have comments of a more  
10 general nature, that's okay, too. I would just  
11 like those to be short and to the point and not  
12 repetitive of others. If you want to say the same  
13 thing that's already been said, then just I  
14 support, you know, X, Y, or Z's comments that have  
15 already been made. Because I do expect we'll have  
16 a number of people who want to speak, and we will  
17 have to have some efficiency and limitations on the  
18 time.

19 MR. SAHAGIAN: Madam Chair, I have a  
20 question, excuse me.

21 CHAIRWOMAN CERVENKA: Yes, Mr. Sahagian.

22 MR. SAHAGIAN: Will there be a cutoff time  
23 to sign up to speak? Because this could go on  
24 perpetually.



1           CHAIRWOMAN CERVENKA: Yeah. I want to  
2 assess first the number with Mr. Moore, so perhaps  
3 after we get through these supplemental  
4 presentation and responses, we can take a 5-minute  
5 break, organizationally, to see how many we have,  
6 figure out the number of minutes, and then we can  
7 have a time cutoff whereby we can then start our  
8 deliberations.

9           MR. SAHAGIAN: Don't you think we should  
10 just have a cutoff now, like, if you don't register  
11 in the next 30 minutes or something like that? I  
12 mean, this could go on forever.

13           CHAIRWOMAN CERVENKA: You know, I just --  
14 I don't feel comfortable until I know the exact  
15 scope of how many people want to speak. That's why  
16 I think we should -- once we figure that out, we  
17 should take a break and then come back in an  
18 organized way and then present what the order is  
19 going to be and the time limit at that time.

20           Okay. So, Mr. Moore, you're going to be  
21 taking down the list, correct?

22           MR. MOORE: That is correct. I am doing  
23 it as we speak.

24           CHAIRWOMAN CERVENKA: Okay. Good. So

1 everyone, you know, within the next 30 minutes or  
2 so, if you want to speak, please get your hands up.  
3 Because after that, we won't have you on a list,  
4 and you won't be called upon to speak. Thank you.

5 Okay. I'm going to turn it over to you,  
6 Mr. Willis, for your introductory remarks.

7 MR. WILLIS: Thank you, Madam Chair. I  
8 had mentioned at the last meeting that we met --  
9 that staff had met with the developer and the FAB  
10 over 30 times, mostly these past several months  
11 where we've met. I just wanted to reiterate that  
12 those meetings were either attended by all three  
13 parties, meaning the staff, the FAB, the developer,  
14 or, as our legal counsel had explained it on the  
15 last meeting, what we referred to as one-on-one  
16 meetings where the staff would meet with just one  
17 party or just the other.

18 And the purpose of those meetings, you know,  
19 they were focused attempts to try to find solutions  
20 on the mitigation efforts. Most notably, that  
21 compensation element of the mitigation plan. So we  
22 held another such meeting yesterday on how those  
23 funds within the compensation element of the  
24 mitigation plan could be disbursed. Because we

1 felt that that aspect was not adequately explained  
2 at the last meeting. So at that meeting -- in  
3 followups to that meeting, the developer and  
4 representatives for the FAB did agree on some  
5 concessions, but in the end, we were unable,  
6 unfortunately, to find a solution to an actual  
7 compensatory disbursement. So, therefore, this is  
8 why I wanted to have this introduction. Staff felt  
9 that we needed to present to you, the Council,  
10 further recommendation on what that disbursement  
11 could be, and that's what Jim can provide to you  
12 now.

13 CHAIRWOMAN CERVENKA: Thank you,  
14 Mr. Willis. Mr. Boyd.

15 MR. BOYD: Thank you, Madam Chair, Council  
16 members.

17 VICE CHAIRMAN COIA: Madam Chair, Ray Coia  
18 to be recognized before Jim speaks, please.

19 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

20 VICE CHAIRMAN COIA: I just need some  
21 clarification on the purview or the jurisdiction of  
22 our Council in the compensatory mitigation process.  
23 I mean, our understanding is that staff went to the  
24 table with Orsted and FAB and our counsel many

1 times in an effort to try to effectuate a dollar  
2 amount. And it seems that, that may have happened.

3 But at this point, I don't think that we are  
4 allowed to mandate mitigation for concurrence as to  
5 how it's done, what fund it goes in, or the like.  
6 Because, I mean, there's a lot of other protections  
7 that have to be put in place for the claims process  
8 that may occur. So I just wanted, on the record,  
9 that I think we're allowed to assist in a dollar  
10 amount, but I think it ends there. And if Tony can  
11 just comment on my concern, I'd appreciate it.

12 MR. DeSISTO: Well, in an objection, we've  
13 been advised by our partners at NOAA that an  
14 objection can't be based on a dollar amount for the  
15 mitigation, rather, the mitigation, the question  
16 is, whether or not it's sufficient or not what  
17 staff is recommending with the conditional  
18 concurrence. And it's based on a variety of  
19 things, which Jim is going to address much better  
20 than I will be able to.

21 But part of the conditional concurrence  
22 recommendation is, is that this matter be handled  
23 similar to how Vineyard Wind was handled for side  
24 agreements that would be stand-alone and

1 enforceable in that manner, rather than having that  
2 as part of the concurrence itself.

3 So the proposal from staff will be that, if  
4 the recommendation is accepted, that there will be  
5 time for legal counsel and staff to fashion these  
6 side agreements with the developer to address the  
7 issues that you've raised in your comments. And  
8 that would be a separate agreement aside from the  
9 Council action. I hope I answered your question.

10 VICE CHAIRMAN COIA: It's good for now.  
11 Thank you.

12 MR. BOYD: Madam Chair, Council members,  
13 if I might just add to what legal counsel just  
14 responded to Vice Chair Coia? Keep in mind that,  
15 under the Ocean SAMP enforceable policies,  
16 mitigation shall be negotiated between the Council  
17 staff, the FAB, the project developer, and approved  
18 by the Council. Keep in mind that, under this same  
19 enforceable policy, which is Section 11.10.1(H) in  
20 the Ocean SAMP, also specifies that mitigation  
21 measures may include, but are not limited to,  
22 compensation, effort reduction, habitat  
23 preservation, restoration, and construction,  
24 marketing, and infrastructure improvements.

1           So as Legal Counsel DeSisto just mentioned, in  
2           the Vineyard Wind matter, the developer, the FAB,  
3           the CRMC staff, negotiated a mitigation package,  
4           which included compensatory mitigation. And the  
5           implementation of that compensatory mitigation will  
6           happen through the side agreement that was signed  
7           by Vineyard Wind and CRMC. And as a matter of  
8           fact, we fully expect the implementation of that  
9           agreement to occur later this summer.

10           Vineyard Wind has presently received a record  
11           of decision as of May 10th of this year. And all  
12           federal permits will be in place in the coming  
13           weeks, and Vineyard Wind will reach financial close  
14           later this summer. And as required under that  
15           mitigation agreement, signed and executed between  
16           Vineyard Wind and CRMC, Vineyard Wind must begin  
17           implementation of that agreement within 60 days of  
18           financial close. So that is the mechanism by which  
19           CRMC is implementing mitigation measures for the  
20           Vineyard Wind, and we're proposing a similar  
21           measure here for the South Fork project.

22           So with that, Madam Chair, Council members,  
23           our staff addendum dated today is very brief. I'm  
24           just going to read it into the record for the

1 benefit of the attendees here today who may not  
2 have yet seen this recommendation, which has been  
3 posted up on the Council's website.

4 This is the addendum dated today, June 2nd,  
5 for the South Fork Wind matter. This is the  
6 federal consistency decision, and this, again, is  
7 file 2018-10-082.

8 As the executive director just mentioned a few  
9 moments ago, CRMC staff met with representatives of  
10 South Fork Wind project developer, which is Orsted  
11 and Eversource as the joint venture here, and  
12 representatives for the CRMC Fishermen's Advisory  
13 Board, also known as the FAB, yesterday, on June  
14 the 1st, to discuss and negotiate terms of a  
15 mitigation agreement. As part of the CRMC  
16 mitigation process, pursuant to Ocean SAMP  
17 Enforcement Policy 11.10.1(H), the developer  
18 offered compensatory mitigation as part of an  
19 overall mitigation proposal, which increased from  
20 \$8.5 million to \$12 million over 30 years as of  
21 May 13th.

22 There is continuing disagreement between the  
23 parties on a payout over time; that is, over  
24 30 years, five years, or one-time lump sum, etc., a

1 direct claims process and the proposed clawback  
2 elements of the developer's mitigation proposal.

3 The developer used a discount rate that showed  
4 the present value of 12 million over 30 years is  
5 \$5.2 million when paid in a one-time, lump sum.  
6 The developer also agreed that the compensatory  
7 mitigation could be paid in any manner, so long as  
8 it was equal to the equivalent of 12 million paid  
9 over 30 years. The end result from the June 1st  
10 meeting was that an agreement was only made on the  
11 discount rate.

12 While the FAB now accepts the present value  
13 discount rate, it still questions the payout  
14 schedule and continues to recommend that the  
15 Council object to the South Fork Wind consistency  
16 certification. The FAB confirmed its  
17 recommendation at the May 25th Council meeting,  
18 however, that they would settle in this matter, if  
19 the compensatory mitigation payment was a one-time,  
20 lump-sum payment of \$12 million.

21 The CRMC staff respectfully disagreed with the  
22 FAB's objection recommendation. In our view,  
23 5.2 million in a lump sum payable to the  
24 Rhode Island Fishermen's Viability Trust, which use



1 will be controlled by the fishing industry, is the  
2 preferred option in this case.

3 The Vineyard Wind 1 project has recently  
4 received federal approval for 800-megawatt wind  
5 farm, and it is expected that, later this summer,  
6 Vineyard Wind will begin implementation of its  
7 mitigation agreement with the State of  
8 Rhode Island, which includes establishment of the  
9 Rhode Island Fishermen's Viability Trust.

10 Once established by the FAB, in consultation  
11 with CRMC staff, the trust will be a nonprofit  
12 entity controlled by the fishing industry and  
13 independent of the State of Rhode Island.  
14 Vineyard Wind will make the first payment into the  
15 trust within 60 days of financial close. Again,  
16 expected later this summer. Therefore, CRMC staff  
17 recommends the following two items:

18 Number 1, the Council accept the developer's  
19 compensatory mitigation offer of a one-time,  
20 lump-sum payment of \$5.2 million to be payable to  
21 the Rhode Island Fishermen's Viability Trust within  
22 60 days of financial close on the South Fork Wind  
23 project. As a side note, we expect financial close  
24 on the South Fork project to occur in early 2022.

1           The Council should also require the developer  
2           to work with CRMC staff and legal counsel to enter  
3           into a binding agreement to implement this  
4           condition, and that the agreement be included with  
5           the State's federal consistency decision no later  
6           than June 22, 2021.

7           Again, as a sidebar, the agreement implemented  
8           and executed between Vineyard Wind and the CRMC was  
9           completed on February 21, 2019, and the Council  
10          issued its concurrence, which included that  
11          agreement, on February 28th. That mitigation  
12          agreement was included with the Council's decision  
13          when issued on February the 28th. We are proposing  
14          the same action in this matter.

15          Number 2, the Council issue a conditional  
16          concurrence pursuant to the federal consistency  
17          regulations at 15 CFR, Section 930.4, that includes  
18          the CRMC staff recommend -- recommended -- excuse  
19          me -- project minimization alternative for a  
20          maximum of 12 turbine foundations using the  
21          11-megawatt turbine generator.

22          The Council must require the developer to file  
23          a letter with BOEM modifying its project and  
24          agreeing to the State's condition requiring the

1 project minimization alternative, pursuant to  
2 15 CFR, Section 930.4, Subsection A-2, and file  
3 same with the CRMC prior to June 22, 2021, so it,  
4 too, can be included with the State's federal  
5 consistency decision.

6 So in conclusion, it is the staff's opinion,  
7 with a reasonable degree of certainty, based on the  
8 range of estimates of project impacts over the life  
9 of the South Fork Wind project, all the facts  
10 presented, and the materials reviewed in this  
11 matter, that with the Council-required project  
12 minimization alternative of no more than 12 turbine  
13 foundations, the compensatory mitigation as  
14 recommended herein, combined with all other  
15 mitigation elements put forth by the developer,  
16 that South Fork project meets all the enforceable  
17 policies of the Ocean SAMP.

18 And in speaking of the mitigation  
19 requirements, under these enforceable policies, the  
20 Bureau of Ocean Energy Management, also known as  
21 BOEM, is the lead federal permitting agency for  
22 offshore wind projects. Under the South Fork  
23 construction and operation plan, BOEM may include  
24 up to 15 turbine foundations, which would result in

1 the maximum impact to the coastal resources.

2       However, the CRMC proposed project  
3 minimization alternative will reduce overall  
4 impacts to glacial moraine, as fewer foundations  
5 and inter-array cable would be installed. The  
6 alternative will reduce construction impacts from  
7 pile-driving, cable trenching and installation, and  
8 the placement of scour protection and secondary  
9 cable protection within glacial moraine. Thus, the  
10 project minimization alternative allows the CRMC to  
11 conclude that all feasible efforts have been made  
12 to avoid damage to the glacial moraine resources  
13 and values.

14       So with that, Madam Chair and Council members,  
15 I will conclude and be happy, between Jeff and  
16 myself, to answer any questions the Council may  
17 have.

18               MR. SAHAGIAN: Madam Chair, may I ask a  
19 question?

20               CHAIRWOMAN CERVENKA: Yes.

21               MR. SAHAGIAN: I'm sorry. No, I defer to  
22 you, Madam Chair.

23               CHAIRWOMAN CERVENKA: No. Go ahead,  
24 Mr. Sahagian. I was going to ask if anyone had

1 questions.

2 MR. SAHAGIAN: Okay. Mr. Boyd, you  
3 indicated you were familiar with the negotiations  
4 regarding Vineyard Wind?

5 MR. BOYD: Yes, sir.

6 MR. SAHAGIAN: Okay. And did you  
7 participate in those negotiations?

8 MR. BOYD: I did not participate in the  
9 direct negotiations. That was handled by former  
10 Executive Director Grover Fugate and legal counsel.

11 MR. SAHAGIAN: But you're familiar with  
12 the outcome of those negotiations. And I guess my  
13 question is, do you think this offer is fair and  
14 similar to the negotiations conducted with  
15 Vineyard Wind?

16 MR. BOYD: What I would say is that we  
17 tried to get the best possible mitigation deal here  
18 as part of the overall mitigation package for this  
19 particular project.

20 MR. SAHAGIAN: Okay.

21 MR. BOYD: We were not successful,  
22 unfortunately, in getting an agreement that all the  
23 parties could agree to.

24 MR. SAHAGIAN: Okay. And then, during the

1 process where you tried to advance these  
2 negotiations, was everything on the record, or was  
3 everything with the knowledge of both parties?

4 MR. BOYD: Everything that was presented  
5 during the three-party negotiations, and then when  
6 CRMC staff held individual meetings with both  
7 South Fork and the FAB, we did share with all the  
8 parties all the information that was supplied to us  
9 in a timely manner.

10 MR. SAHAGIAN: Okay. So neither side can  
11 indicate that there were secret, backroom deals?

12 MR. BOYD: There were no secret, backroom  
13 deals.

14 MR. SAHAGIAN: Okay. Because one of my  
15 concerns is, you know, we're being scrutinized by  
16 the media, and the objectors and the attorney for  
17 the FAB indicated at the last meeting --

18 MR. BOYD: Correct.

19 MR. SAHAGIAN: -- that she felt there were  
20 secret, backroom deals. And you still feel  
21 confident that everything was out in the open, both  
22 sides were notified of, you know, what the other  
23 side was thinking and what was represented and what  
24 was presented to them and to us?

1 MR. BOYD: Yes. I would say there  
2 certainly was some obfuscation of facts during the  
3 entire negotiation of proceeding over several  
4 months, but the facts all did get out.

5 MR. SAHAGIAN: So between you and  
6 Executive Director Willis, everything was conveyed  
7 to both sides?

8 MR. BOYD: That is correct.

9 MR. SAHAGIAN: Thank you very much.

10 MR. BOYD: You're welcome.

11 VICE CHAIRMAN COIA: Madam Chair,  
12 Ray Coia.

13 CHAIRWOMAN CERVENKA: Mr. Coia.

14 VICE CHAIRMAN COIA: I have a question to  
15 the Chair and/or counsel. My understanding is  
16 May 25th, when we had our last meeting, staff  
17 presented a conditional concurrence with the  
18 payment of \$12 million over 30 years, reduction  
19 from 15 to 12 turbines. And that's what was on the  
20 table. My understanding is the FAB did not agree  
21 to that, did not accept that. The matter was  
22 continued from that night to tonight. A motion was  
23 made that night to request that they continue  
24 negotiating, and that failed.

1           So they come before us tonight with another  
2 staff recommendation of bringing the 12 million  
3 down to 5.2 million payable all at once.

4           So my question is, how did we get here? How  
5 did we get another -- I mean, I know what it is  
6 from what Jim said, and that it's been presented to  
7 us, but how was it that the parties got back  
8 together and now we've got a new figure coming  
9 before us? Did Orsted call CRMC and ask to come  
10 back to the table? Because I'm kind of curious how  
11 it happened, when the last thing -- when we left on  
12 the last hearing, was there was no mandate that  
13 they continue negotiating.

14           And now what we have before us tonight is a  
15 different conditional concurrence, different  
16 because of the dollar amount. And it's my  
17 understanding that the FAB is not in agreement with  
18 this one as well. So we went from 12 million down  
19 to 5.2 million, and I'm not seeing or following  
20 that that was at the request of the developer,  
21 Orsted. So I guess that's in a question form but  
22 with a statement.

23           CHAIRWOMAN CERVENKA: Mr. Willis.

24           MR. SAHAGIAN: Sure, I can -- if you don't



1 mind, Madam Chair?

2 CHAIRWOMAN CERVENKA: Go ahead.

3 MR. WILLIS: Mr. Coia, the meeting was  
4 held at my request as part of our continuing  
5 meetings that we have had with both parties. I had  
6 noticed that the -- the disbursement issue was  
7 still an issue that I had many questions for. So I  
8 asked both parties to come together to figure out  
9 the best way to disburse the \$12 million over  
10 30 years. And that's where it was learned that, in  
11 any fashion, the 12 over 30 could be disbursed.  
12 That the developer was willing to look at any  
13 number of ways to do that.

14 In the end, in the meeting, representatives  
15 for the FAB just weren't interested in a schedule  
16 where \$12 million over 30 years was the number.  
17 They were not authorized to discuss those types of  
18 issues. So it was on my recommendation that what  
19 we felt as staff, a 12 million over 30-year  
20 schedule might be better served to the fishing  
21 community as a one, lump-sum payment, put into the  
22 viability trust, that they can manage as they see  
23 fit, over the course of the life of the project.

24 So in the end, it's still -- it's what the net

1 present value is of \$12 million today. Nothing has  
2 changed in terms of the compensation number. It's  
3 just how it's disbursed.

4 VICE CHAIRMAN COIA: Okay. Thank you for  
5 that answer.

6 CHAIRWOMAN CERVENKA: Any other questions?  
7 Mr. Gomez.

8 MR. GOMEZ: Yeah. And I don't know how  
9 deep we want to go in it at this time, but the  
10 present value method, I know the FAB probably  
11 doesn't like that, but it's a very legitimate  
12 exercise on deciding what the value of that money  
13 is today and taking it upfront. And then I believe  
14 the Vineyard payout was somewhere around 2 million.  
15 So it looks like, in the very near future, the FAB  
16 would be getting over \$7 million to put into a  
17 trust, which is one of the things they wanted, was  
18 a trust.

19 So I don't have a lot of problems. You know,  
20 I'm not settled in my mind yet, but I don't have a  
21 lot of problems with the process that you  
22 presented. The one question I think I have is  
23 that -- a couple of questions, but one is we are an  
24 east-to-west layout that we wanted, and we are

1 1 nautical mile, not 1.1, but 1; is that correct?

2 MR. BOYD: That's correct, Mr. Gomez.

3 MR. GOMEZ: And do we have the ability --  
4 we had a lot of problems -- a number of problems  
5 with the Block Island Wind Farm, and we ended up  
6 with a CVA. Are we in a position to request a CVA  
7 on this? I know one of the problems with  
8 Block Island is it took a lot longer. There was a  
9 lot of cable lay problems. There was a lot of  
10 cement dropped on the bottom because they did not  
11 bury cables. I would suspect we're not in a  
12 position to ask a CVA, but somebody ought to think  
13 about it.

14 MR. BOYD: You're absolutely correct,  
15 Mr. Gomez. The Block Island project was entirely,  
16 at least the turbines and most of the cabling, was  
17 in State waters. So it was a State permit. And  
18 the CRMC was able to require a certification  
19 verification agent, a CVA. BOEM requires a CVA for  
20 all offshore wind projects conducted in federal  
21 waters. So a CVA will be on South Fork and every  
22 other offshore wind project that BOEM may approve  
23 in the future. The CRMC cannot make that  
24 requirement because we are only reviewing this

1 matter as a federal consistency matter because no  
2 portion of this project is in State waters.

3 MR. GOMEZ: Were those reports that BOEM  
4 would require from CVA, would they be made  
5 available to CRMC?

6 MR. BOYD: I believe that they would be,  
7 yes.

8 MR. GOMEZ: Okay. Thank you. Just a  
9 point. I think it's needed, and you've explained  
10 that one will be assigned, although, not from the  
11 State of Rhode Island.

12 MR. BOYD: Correct.

13 CHAIRWOMAN CERVENKA: Other questions for  
14 Mr. Boyd?

15 (NO RESPONSE)

16 CHAIRWOMAN CERVENKA: I have a question,  
17 Mr. Boyd, on the \$12 million or \$5.2 million in  
18 present value. I know we're not just looking at  
19 compensation. That's part of the mitigation  
20 package. But I'm trying to get an idea what that  
21 \$12 million would cover as far as percentage of  
22 estimated losses.

23 And I understand there is a range, right,  
24 that -- I think in your original staff report it

1 was 15 million to 40 million, and that's 50 percent  
2 to 80 percent loss. And so I'm trying -- and  
3 that's their estimate. And I know that the  
4 developer said, you know, maybe up to 100 percent  
5 during the multi-month construction period, but  
6 then it's 5 percent after that. The \$12 million is  
7 what percentage approximately of the lower end of  
8 the estimated losses?

9 MR. BOYD: Sure. I think the way to  
10 answer that, Madam Chair, is, you're absolutely  
11 right, there is a range of estimates that we put  
12 together based on information that was provided by  
13 both the developer, as well as the FAB. And when  
14 we looked at commercial, charter, and recreational  
15 economic impacts, as presented by both parties, and  
16 then we applied the FAB estimated, across the  
17 board, 50 to 80 percent losses that they estimated  
18 during operation phases, and you're correct, it  
19 will be, you know, 100 percent during a  
20 construction period, which, for this project, the  
21 COP states that it will be about an eight-month  
22 period. There's uncertainty there. There may be  
23 extensions beyond the eight months just because of  
24 the difficulty of construction in the offshore

1 environment. Again, speaking to the term  
2 "uncertainty" that I raised at the meeting last  
3 week.

4 So the FAB estimated 50 to 80 percent losses  
5 during operation. So if we apply those estimates  
6 at the lower end of 50 percent loss using the  
7 developer's numbers, it's about \$15 million over  
8 30 years. Using the FAB's upper range and using  
9 their numbers at an 80 percent loss, it could be  
10 \$40 million. But, again, this is a range of  
11 estimates, and there's lot of uncertainty there.

12 The developer offered compensatory mitigation  
13 of \$12 million over 30 years. And it was staff's  
14 opinion that, for the benefit of the fishing  
15 industry, it would be best to take that in one lump  
16 sum, and, in our opinion, put it into a vehicle, if  
17 you will, that will be established this summer and  
18 will be in place by the time South Fork Wind  
19 reaches financial close. This way the fishing  
20 industry, which will control the Rhode Island  
21 Fishermen's Viability Trust, there will be a board  
22 of trustees selected by the fishermen to operate  
23 and implement the trust, they will have monies  
24 initially put in by Vineyard Wind, and

1 Vineyard Wind will then make four other consecutive  
2 payments. So they'd pay into the trust, over a  
3 five-year period, 2-and-a-half million dollars for  
4 each of the five years, for a total of  
5 12-and-a-half million dollars at the end of the  
6 five-year period.

7 When South Fork closes with our recommendation  
8 this evening, there would be 5.2 million in one  
9 lump-sum payment in -- sometime in early 2022. So  
10 there will be monies there available for the  
11 fishing industry to determine how best to use those  
12 monies to take care of the fishing industry.

13 Whether it's to pay out claims by fishermen from  
14 losses during construction of either South Fork or  
15 Vineyard Wind. And in speaking of percentages, the  
16 12 million over 30 years would potentially cover  
17 expected losses but at less than 50 percent over  
18 the 30-year life. But, again, this is the FAB's  
19 estimate of potential losses during the operational  
20 phase, which is 25 years of between 50 and 80  
21 percent. It could potentially be less than that.  
22 We just don't know.

23 And the uncertainty here is, we do not have  
24 any projects in the Northeast, with the exception

1 of the five turbine Block Island project and two  
2 turbines that are in offshore waters off of the  
3 coast of Virginia. And until there are projects  
4 out there that we can continue to monitor for a  
5 period of time, to understand what the range of  
6 potential impacts will be, how it's going to affect  
7 the fishing community, and how best the fishing  
8 community can adapt to the extent that it might be  
9 able to adapt, we won't know.

10 And so our recommendation tonight is to  
11 further the fishing industry in determining its  
12 destiny in terms of how compensatory mitigation  
13 funds will be spent.

14 CHAIRWOMAN CERVENKA: I like the idea of  
15 an upfront, lump-sum payment because I was worried  
16 if there would -- for example, there would be each  
17 year an equal amount funded up to 30 years that you  
18 might not have enough funds in the early years to  
19 cover anticipated losses.

20 And I think both the -- all parties have  
21 agreed that there is going to be impacts that are  
22 different given where you are on that spectrum of  
23 time, concentrated most seriously in the  
24 construction phase and then probably in the first



1 few years of operation. So that makes sense to me.

2 And I also think you do need funds for the  
3 decommission stage, but that will be for the  
4 fishermen to determine how they preserve the funds  
5 for that -- those future losses, as I understand  
6 it. Is that correct?

7 MR. BOYD: That would be correct. We  
8 believe it's in the best interest of the fishermen  
9 to control compensatory mitigation funds as they  
10 see fit to deal with any potential revenue losses  
11 during construction. And as you correctly point  
12 out, it is expected that the greatest impacts will  
13 occur during the construction phase because there  
14 will be exclusion zones around each turbine  
15 foundation when it's constructed and when they're  
16 cabling, etc. And the noise impacts will likely  
17 impact -- very likely impact the fishery resources  
18 and the ability of the fishermen to catch in  
19 proximity to where construction activity is  
20 occurring and for quite a distance out.

21 As we noted in our staff report, there is  
22 potential for behavioral affects on fish as much as  
23 almost 8 miles away from a turbine that is being  
24 driven into the seabed.

1           CHAIRWOMAN CERVENKA: And then, even after  
2 construction, it takes a period of time for fish to  
3 migrate back in, ecosystem to reestablish, and  
4 fishermen to adjust to a new way of fishing between  
5 the turbines?

6           MR. BOYD: Correct.

7           CHAIRWOMAN CERVENKA: Okay. Speaking of  
8 the turbines, and we've talked about the reduction  
9 in the number of them from the 15 to 12, that's  
10 part of the recommended conditional concurrence,  
11 and you spoke to the reason why this would mitigate  
12 the impact because there would be less  
13 pile-driving, less cabling, less scouring  
14 equipment, and there were some comments made at the  
15 last meeting about it not having a material affect.  
16 That's not -- it will have a significant affect, as  
17 I view it, based on what you've stated; is that  
18 correct?

19           MR. BOYD: That's correct. Under the  
20 construction and operation plan, BOEM may approve  
21 up to 15 turbine locations for this project.  
22 That's what BOEM could approve. And so with the  
23 staff recommendation for no more than 12 turbine  
24 foundations, our project minimization alternative

1 would ensure that there would be three less turbine  
2 foundations installed and the requisite cabling in  
3 between, which is 1 nautical mile of cabling  
4 between each of these turbines. Because remember,  
5 when these turbines are installed, they all have to  
6 be interconnected, and then that connects to an  
7 offshore substation, which is on a separate  
8 platform, and then the export cable emanates from  
9 the offshore substation to make landfall, in this  
10 case, on Long Island.

11 CHAIRWOMAN CERVENKA: I think there might  
12 be some discussion of, well, if you can't specify  
13 where you're going to take out those three, then it  
14 doesn't help. Can you address that criticism and  
15 if we have any say on that?

16 MR. BOYD: Sure. In BOEM's draft  
17 environmental impact statement, there is a habitat  
18 minimization alternative. It contemplates the  
19 potential removal of turbine foundations if  
20 micrositing -- and micrositing is the ability of  
21 the developer under BOEM's regulations -- if they  
22 have a difficult pile location, they have the  
23 ability, under BOEM's regulations, to move that  
24 pile within a 500-foot radius from the identified

1 position in the COP and still meet BOEM's  
2 requirements without having to resubmit a new  
3 project alternative to be reanalyzed.

4 So the micro siting provides the developer the  
5 ability to avoid, if they can, glacial moraine in  
6 those instances where -- let's say a turbine  
7 location in its currently identified location is in  
8 glacial moraine, but yet 200 feet away they would  
9 be outside of the glacial moraine, well that allows  
10 them to microsite.

11 The habitat minimization alternative in the  
12 DEIS, again, contemplates potential removal of  
13 turbine positions that cannot be microsited and  
14 still maintain the required separation distances  
15 that the Coast Guard has recommended in its  
16 MARIPARS report. That's the Massachusetts  
17 Rhode Island Port Access Routing Study, which  
18 recommended the 1 by 1 nautical mile  
19 north-south/east-west uniform grid for the entire  
20 1,400 square miles of BOEM lease areas in  
21 Southern New England waters. On the diagonals, it  
22 will be .7 nautical miles on the diagonals between  
23 any one turbine. And the Coast Guard wants to  
24 maintain that minimum distance for safe navigation,

1 as well as to conduct search and rescue operations.

2 CHAIRWOMAN CERVENKA: Okay. Thank you. I  
3 don't have any further questions. Thank you for  
4 the explanation. Does anyone else have any  
5 follow-up questions for Mr. Boyd?

6 (NO RESPONSE)

7 CHAIRWOMAN CERVENKA: Okay. If none, then  
8 I would ask if Mr. Moore can bring in counsel for  
9 both South Fork Wind and FAB so they can have an  
10 opportunity to respond to the addendum.

11 MS. MAIN: Hello.

12 CHAIRWOMAN CERVENKA: Ms. Main.

13 MS. MAIN: Hello, Chair Cervenka. Hello,  
14 Council members.

15 CHAIRWOMAN CERVENKA: I'll give you an  
16 opportunity to spend about 10 to 15 minutes, if you  
17 would, responding to the addendum, and limiting the  
18 comments to the new elements of the conditional  
19 concurrence, if you will.

20 MS. MAIN: Certainly. Thank you. And I  
21 will try to keep this as brief as possible. As you  
22 have heard tonight, South Fork has agreed to a  
23 5.2 million upfront payment. And we have said all  
24 along, including at the last meeting, that we were

1 flexible on how the 12 million, over the life of  
2 the project, will be paid. And so we are accepting  
3 of the 5.2 lump-sum payment.

4 And despite the vote last week, when we had  
5 the request from the executive director to meet  
6 yesterday, we attended that meeting, and tried to  
7 work through the other elements here, including the  
8 funds. And I need to take you back. I need to  
9 take you back quite a few months.

10 At the end of September of 2020, South Fork  
11 made its proposal. Part of that proposal included  
12 term sheets for a direct compensation fund and a  
13 community trust fund. We developed those programs  
14 with the assistance of Industrial Economics out of  
15 Massachusetts who has expertise in developing  
16 funds. And to a certain degree, we followed what  
17 had been done in the past as far as having a direct  
18 compensation fund and a trust fund.

19 But what was missing -- and what was missing  
20 in particular from the Vineyard Wind approval --  
21 was a developed claims process. So South Fork took  
22 the additional step, and with its term sheet dating  
23 back to September, outlined a claims process. So  
24 that was fully disclosed to those involved in that

1 time frame.

2 And as you've heard, tonight and last week,  
3 there were many mitigation meetings involving CRMC  
4 staff, South Fork, and the FAB. Those meetings  
5 became overshadowed by the mitigation number and  
6 the different elements of it -- operational  
7 impacts, construction impacts, decommissioning  
8 impacts, and discussions about all of those  
9 elements. There were times when we attempted to  
10 talk about the funds, and, again, it was  
11 overshadowed.

12 Then, as we approached these meetings, and  
13 including last week, there was a discussion over  
14 how would this be put together. So last Friday, I  
15 submitted another letter to CRMC -- it's dated  
16 May 28th -- summarizing our funding mechanisms,  
17 which, again, is the claims process and the trust  
18 fund. We weren't able to talk about those elements  
19 yesterday. And so today, around 2 p.m., I got the  
20 updated recommendation from the staff that Mr. Boyd  
21 talked about.

22 What is troubling to me with this updated  
23 recommendation is not the \$5.2 million upfront  
24 payment, but the fact that all of that money would

1 go into a trust fund. And it's a trust fund that  
2 is a Vineyard Wind trust fund. A trust fund that  
3 hasn't been developed yet. A trust fund where  
4 there's no claims process, and so, therefore, what  
5 my client would be missing is any release from  
6 having its funds, which are earmarked for  
7 mitigation, being paid out for a claim and not  
8 getting a release for it.

9 If you go back and look at this  
10 Fishermen's Viability Trust, it doesn't have that  
11 mechanism for a claims process where we get a  
12 release.

13 We, working with staff and trying to work with  
14 the FAB, came to that 12 million over the life of  
15 the project. Frankly, we never wanted to go that  
16 high. If you look at our prior proposals,  
17 Woods Hole analyzed project impacts. We added  
18 contingencies, and as a first project, we added  
19 more money to try to push this forward on  
20 mitigation. But never was the concept to put all  
21 the money in a trust where we don't get releases  
22 for that claim during the process.

23 And as even Chair Cervenka mentioned a few  
24 minutes ago, some needs to remain for decommission



1 impacts. There's potentially impacts on that end.  
2 And I don't see how this trust mechanism would  
3 provide that.

4 So we have concerns about it pouring over into  
5 this trust. Will there be an exhaustion of the  
6 money by the end? And, frankly, I sat through  
7 those Vineyard Wind hearings, and the two things  
8 that still ring in my ears over that hearing are  
9 the fact that Vineyard was not a 1 by 1 nautical  
10 mile grid.

11 South Fork, as we explained last week, with  
12 Orsted and Eversource, lead the development  
13 community to go to that 1 by 1 nautical mile grid  
14 in order to mitigate against impacts. So that  
15 modification to the project was significant. And  
16 that's one of the reasons why, when you talk about  
17 impacts here, we believe that the impacts have been  
18 truly minimized because of that 1 by 1.

19 But the other thing that rings through my ears  
20 from that Vineyard Wind hearing, was that the trust  
21 would be used as a war chest against the offshore  
22 wind industry. So here I am, met at 2 p.m. today  
23 with this suggestion for a trust, and all of the  
24 money that we're willing to pay in upfront going

1 into that trust, with no claims process established  
2 with releases for us, the potential of exhaustion  
3 of the funds, being tied to another developer in  
4 some way, and also this concern about a war chest.  
5 And I understand that this trust hasn't even been  
6 written up yet. There's only agreement to develop  
7 this trust, but these are our concerns.

8 We revert, and we would like you to revert, to  
9 what our original proposal was, which is a claims  
10 process with funding for that claims process and  
11 certainly money for a trust. And if you want  
12 certain of our 5.2 to be earmarked into the  
13 Rhode Island Fishermen's Advisory -- Viability  
14 Trust, we're willing to do that.

15 Again, we'll work it out with CRMC staff and  
16 whatever part Vineyard Wind may play in this, and  
17 we'll certainly put money into that trust. Again,  
18 we don't want it being used as a war chest, but  
19 we're willing to work and comply with part of the  
20 element of this recommendation with the trust.

21 But what we're not willing to give up is a  
22 claims process where we give a release and also  
23 some assurance that money will be on the other end  
24 for decommissioning. And I think we can work that

1 out with the good offices of Mr. DeSisto, as has  
2 been recommended with this staff additional  
3 addendum.

4 But those are the concerns that we see with  
5 the overall mechanism with the trust. Keeping in  
6 mind, as well, that we will be setting up, still  
7 separate and apart, our radar fund. I don't want  
8 to lose sight of that. That's an important fund  
9 for equipment and for training. So that will be a  
10 separate fund that we still stand by and will set  
11 up.

12 But South Fork needs the protection on the  
13 liabilities, as I've discussed before. Otherwise,  
14 what are we mitigating? We're supposed to be  
15 mitigating impacts, and we need to make sure that  
16 those monies are being spent to mitigate impacts  
17 and that we get releases.

18 The other element of this recommendation, from  
19 this afternoon, that is an issue, though I think we  
20 can work through it, is that CRMC staff has  
21 requested that we file a letter with BOEM modifying  
22 our project, and they cite to a CFR provision.  
23 That CFR provision, 15 CFR Section 934 A2 is about  
24 amending COPs, construction and operation plans.

1 We need that stricken, because we do not need to  
2 amend our COP.

3 So on May 21st, and then carrying through to  
4 the early part of next week, when we were faced  
5 with the staff recommendation of dropping turbine  
6 locations, we went to BOEM, and we said, if we  
7 agree to drop those three locations, do we have to  
8 amend our COP? And we suggested that we did not  
9 have to because our design envelope under the COP  
10 is up to 15 turbines. So there would be no need to  
11 amend the COP. BOEM agreed with us. They sent an  
12 email back to us that we do not need to amend the  
13 COP. I have already provided that email to  
14 Mr. DeSisto. And so we also ask that the second  
15 condition of today's addendum reflect that we do  
16 not need to amend the COP and that this provision  
17 of the CFR be stricken.

18 One final point. It's been said several times  
19 tonight that the parties talked and that the  
20 parties are here and that the parties will present.  
21 With all due respect, let me remind everyone that  
22 the FAB is advisory to CRMC. The FAB plays an  
23 important role under the OSAMP in that advisory  
24 position, but the FAB is not a party here.



1 Orsted mitigation package following the meeting  
2 last week. So thank you very much for that.

3       However, there is a fundamental  
4 misunderstanding about what I'm calling the alleged  
5 \$12 million over 30 years. We didn't have a ton of  
6 time to go over the information recently submitted  
7 by Orsted, but we did go over it, both myself and  
8 Dr. Sproul. And it is clear to us, that both the  
9 12 million and the 5.2 million have severe and  
10 fatal economic flaws. The only reason I know this,  
11 because I'm not an economist, is because the  
12 qualified expert who is advising the FAB and also  
13 advising you, the Council, explained it to me.  
14 Dr. Tom Sproul, who you are all familiar with, is  
15 the expert on the economics at play in this case,  
16 and we should all be relying on his expert opinion.

17       Hearing from Orsted's counsel tonight, it  
18 seems that Orsted is objecting to the trust option  
19 that CRMC staff put forward because they want  
20 leftover money back, and they also want a release.  
21 But as Dr. Sproul will explain, there's not going  
22 to be any money left very quickly following some  
23 initial round of claims by the fisheries user  
24 groups. And the fisheries user groups cannot sign

1 a release, because they're not going to be made  
2 whole by \$5.2 million. What other recourse will  
3 they have if they are forced to sign a release?

4 As I said last week, I know that the  
5 recommendation from staff may sound reasonable,  
6 but, please, hear us out on the economic piece. We  
7 don't think that the new recommendation follows the  
8 requirements of the Ocean SAMP, and we think the  
9 Council should still be objecting to this project.

10 Given all of that, I think it's best for  
11 Dr. Sproul to explain why the offer amounts have  
12 been misrepresented. So if it pleases the Council  
13 and Madam Chair, could we request that Dr. Sproul  
14 be added as a panelist. And he knows he's only got  
15 about ten minutes.

16 CHAIRWOMAN CERVENKA: That's fine.

17 MS. DESAUTEL: Thank you.

18 VICE CHAIRMAN COIA: Madam Chair, I saw  
19 Attorney Main's hand go up, so I'm not sure if she  
20 wanted to comment before that happened.

21 MS. MAIN: I would like to.

22 CHAIRWOMAN CERVENKA: Ms. Main.

23 MS. MAIN: Madam Chair, I object to  
24 turning this into, you know, expert testimony over

1 trusts. CRMC only has to look back at what it  
2 did with Vineyard Wind. It developed a direct  
3 compensation fund, and it developed the  
4 Fisheries Viability Trust. That's all we're asking  
5 to do here. That's the only issue before us now.  
6 It is not a discussion over the money. The new  
7 issue before us today is whether it goes into a  
8 direct compensation fund in a trust or not. And we  
9 would like to follow the model of a direct  
10 compensation fund and a trust. So I object to more  
11 testimony over numbers here.

12 CHAIRWOMAN CERVENKA: I understand your  
13 comments. I -- you know, I've asked the parties to  
14 limit their comments to the new elements set forth  
15 in the addendum. So I would just ask, Mr. Sproul,  
16 that you attempt to do that, as opposed to retread  
17 on matters that we've already been through at the  
18 last meeting. So with those limitations, I'm  
19 comfortable hearing you now. And, again, if you  
20 can keep your testimony to under ten minutes.

21 VICE CHAIRMAN COIA: Madam Chair,  
22 Ray Coia, before he begins.

23 CHAIRWOMAN CERVENKA: Yes.

24 VICE CHAIRMAN COIA: I did not think that



1 we were allowing witnesses. Attorney Main  
2 testified as an -- well, testified -- she spoke as  
3 an attorney representing the developer, and I  
4 thought we were going to let Attorney Desautel  
5 speak as it relates to the FAB.

6 I think this is opening up a back and forth.  
7 Because once we let this gentleman speak,  
8 Attorney Main then will say, well, I want someone  
9 to speak relative to that, and then we're going to  
10 call Jeff again, Jim again, Tony again, going back  
11 into the discussions. So I don't think it's  
12 proper. If it's proper, I object to it. I just  
13 don't think we need to keep calling more witnesses  
14 on that particular issue.

15 CHAIRWOMAN CERVENKA: Okay. I'll just ask  
16 Ms. Desautel to respond to that, to both Ms. Main  
17 and Mr. Coia's comments, and then I'll ask you,  
18 Mr. DeSisto, if we need to take a vote on that.

19 MS. DESAUTEL: Sure. Thank you,  
20 Madam Chair and Council members. The FAB is an  
21 advisory board to the Council, so our role, at this  
22 point, is to make sure that everyone understands  
23 the economics of what's actually being proposed.

24 Now, if you feel confident that you understand

1 it, you're better than me, because I am not an  
2 economist, that's why we elected to have Dr. Sproul  
3 speak tonight in a very limited capacity. He can  
4 explain to you why the 12 million over 30 years is  
5 not actually that. So the 5.2 million is not  
6 actually 5.2 million. That is all he is going to  
7 explain to you. We're not talking about the trust.  
8 We're not talking about any other element other  
9 than that.

10 CHAIRWOMAN CERVENKA: Okay. Thank you.  
11 Mr. DeSisto.

12 MR. DeSISTO: Okay. The difficulty I see  
13 here is that, you know, the presentations were from  
14 last week, and then it was closed. And what the  
15 Chair -- what you've allowed now is for the  
16 attorneys to respond to the -- what Mr. Boyd had to  
17 say on this. And now what we have is the FAB,  
18 which is the advisory group to CRMC, essentially  
19 this is testimony, additional testimony and, you  
20 know, on the other side, the applicant was not  
21 allowed to do that.

22 I think what you need to have here is the  
23 statement and the argument from Mr. Desautel that  
24 there's issues with it, and the FAB doesn't agree

1 with it, and thinks that there's problems with the  
2 numbers as they're relayed.

3 But, you know, when we're getting into that  
4 situation that I think Vice Chair Coia is talking  
5 about, you have one party that is allowed to  
6 present an expert witness and the other party  
7 wasn't, and then all of a sudden now we reopen what  
8 we did last week when it was closed. And it's  
9 getting farther and farther away from the purpose  
10 of this meeting, which was to hear from the public.

11 So I think the statement that FAB still  
12 objects, as Ms. Desautel said, thinks there's  
13 problems with the numbers, as she said, and she can  
14 make her argument from there is sufficient. But,  
15 you know, if the Council wants to do otherwise and  
16 you want to take a vote, that's fine.

17 CHAIRWOMAN CERVENKA: You know, I  
18 understand that's probably fair that we limit it to  
19 counsel. I just ask, Ms. Desautel, if you need to  
20 confer with Dr. Sproul so that you can represent  
21 the summary of what he would otherwise be talking  
22 about.

23 MS. DESAUTEL: Yes. Because as I said  
24 before, I'm no economist, and so I don't feel

1 comfortable right now trying to explain what he was  
2 going to talk about.

3 CHAIRWOMAN CERVENKA: Okay. Mr. DeSisto,  
4 could we go to public comment and then come back to  
5 this point, so that Ms. Desautel can finish up with  
6 her summary?

7 MR. DeSISTO: Okay.

8 CHAIRWOMAN CERVENKA: I don't want to lose  
9 time while she's conferring with him. Again, if  
10 you can come back and, you know, be between five  
11 and ten minutes, that will probably be about an  
12 equal amount of time as we gave to Ms. Main.

13 And I think at this point I wanted -- well,  
14 first of all, are there any questions that people  
15 have about what Ms. Main or what Ms. Desautel has  
16 said so far?

17 (NO RESPONSE)

18 CHAIRWOMAN CERVENKA: Any questions we  
19 want to ask Mr. Boyd? Mr. DeSisto?

20 (NO RESPONSE)

21 CHAIRWOMAN CERVENKA: Okay. And we can do  
22 that, you know, again during deliberations. So I  
23 wanted to take a five-minute break because I just  
24 have to assess how many members of the public are

1 going to want to speak. And it's 6:22 right now.  
2 So let's come back at 6:27. And, you know, just  
3 remain on the Zoom, but you can mute and turn off  
4 your cameras if you want. Thank you.

5 (BREAK TAKEN)

6 CHAIRWOMAN CERVENKA: Okay. I think we  
7 are back on the record, and we can start the public  
8 comment portion of our meeting. I understand that  
9 we have 23 individuals who have virtually signed up  
10 to speak, and based on that number, we're going to  
11 limit the comments to three minutes each. And that  
12 will take us to approximately 70 minutes, a little  
13 over an hour.

14 And, Mr. Moore, I just have a partial list  
15 from last time, so I'm going to ask you to be the  
16 one to call out the name of the person speaking,  
17 admit them to the meeting, and then, when the  
18 three minutes is close to being up, you know,  
19 somewhere like 30 seconds before that, if you could  
20 indicate that, if they're still speaking.

21 MR. MOORE: Can do.

22 CHAIRWOMAN CERVENKA: Thank you.

23 MR. MOORE: First up is Geri Edens.

24 MR. WILLIS: Geri, can you raise your

1 hand, please.

2 MR. MOORE: I'm trying to allow them  
3 but -- here we go.

4 CHAIRWOMAN CERVENKA: Ms. Edens, we can't  
5 see you or hear you. And if you're having  
6 technical difficulty, we can come back to you.  
7 Please use the chat box if that's the case. Okay.  
8 Mr. Moore, can you take her off, and we'll come  
9 back to her.

10 MR. MOORE: Next would be David Monti.

11 MR. MONTI: Madam Chair, can you hear me?  
12 Is everyone --

13 CHAIRWOMAN CERVENKA: We can hear you and  
14 see you.

15 MR. MONTI: My name is Dave Monti, and I  
16 am a charter captain and an angler from  
17 Rhode Island. I'm a board member of the  
18 American Saltwater Guides Association, second vice  
19 president of the Rhode Island Saltwater Anglers,  
20 and Vice Chair of the Rhode Island Marine Fisheries  
21 Council. I'm also a member of the Narragansett Bay  
22 Estuary Program Steering Committee and a member of  
23 the Rhode Island Party and Charter Boat  
24 Association.

1 I'm a fishing writer for 15 blogs, newspapers,  
2 and fishing magazines, and weekly solicit input  
3 from thousands of anglers and charter captains,  
4 bait and tackle shop owners, industry experts, as  
5 well as fishing and the boating public to write my  
6 weekly column.

7 I thank CRMC, the FAB, and South Fork Wind for  
8 proposing and working on this project. Without it,  
9 we would miss out on badly renewable energy.

10 The fish I catch today as a charter captain  
11 are vastly different in type and abundance than  
12 what I caught ten years ago due to climate change  
13 impacts. As you know, all the cold water fish have  
14 left, the winter flounder, the American lobster  
15 have moved out, and the warm water fish have moved  
16 into the area, such as scup and black sea bass.  
17 The fishing industry, both commercial and  
18 recreational, need renewable energy to help stem  
19 the tides on the negative climate impacts.

20 South Fork has acknowledged the importance of  
21 private, recreational fishing and has reached  
22 outside to recreational anglers, with leader  
23 interviews, surveys, fishing out workshops, fishing  
24 representatives, and meetings. Recreational

1 anglers are supportive of offshore wind as long as  
2 wind farms are developed responsibly, and that  
3 would be with research before, during, and after  
4 construction to measure any positive and negative  
5 impacts.

6 South Fork Wind farm is being responsibly  
7 developed with an aggressive research and  
8 monitoring plan in place that recreational fishers,  
9 just like me, and commercial fishermen on the FAB  
10 helped develop.

11 This research and monitoring plan is in the  
12 area of a number of different surveys, including  
13 gillnet, fish trap, beam trawl, pot surveys,  
14 acoustic telemetry, and biological cod and pelagic  
15 fish studies. It is a robust fisheries research  
16 and monitoring plan, the kind that every wind farm  
17 should have. And, yes, I say you need plans like  
18 this to measure negative impacts and positive  
19 impacts, because I and other anglers believe that  
20 offshore wind farms will have a major positive  
21 impact on habitat and fish.

22 A peer-reviewed meta-analysis of multiple fish  
23 abundance studies in European wind farms relates  
24 greater fish abundance inside offshore wind farms



1 than outside in control areas. And at the  
2 Block Island Wind Farm, recreational fishing there  
3 is good. Perhaps a bit better, even though fishing  
4 pressure is increased by over 200 percent.

5 You know, when I would fish there before the  
6 wind farm, if you were there on any given summer  
7 day, there might be four, eight, nine boats. Now  
8 some days, believe it or not, on heavy weekends,  
9 there are 100 boats fishing there. Fishing there  
10 now includes large stripe bass and bluefish. In  
11 addition to scup, black sea bass, and nearby fluke  
12 and cod, which is commonly caught in the area, as  
13 well as in other areas outside of Cox Ledge.

14 Spear fishermen, who belong to the  
15 Rhode Island Saltwater Anglers, actually dive on  
16 the pylons, and it's a great place to spear large  
17 stripe bass and sea bass and even tautog. And rod  
18 and reel anglers are using eels, dropping them at  
19 the wind farm to catch large stripe bass. So it's  
20 attracting a number of different species.

21 And at Block Island, as you know, there are  
22 gillnets set right up to the wind farm. There are  
23 trawlers that trawl parallel to it. There are  
24 commercial and recreational rod and reel fishermen

1 fishing right in the wind farm.

2 In my opinion, fishing should be enhanced at  
3 Cox Ledge, too, with enhanced reef effect. The  
4 reef effect of foundations and associated scour  
5 protection will have a major positive impact on  
6 fishing in the South Fork area, just as it has done  
7 at Block Island and in European wind farms.

8 Additionally, I might add --

9 CHAIRWOMAN CERVENKA: Mr. Monti.

10 MR. MONTI: Yes.

11 CHAIRWOMAN CERVENKA: Mr. Monti, you're  
12 over your time, so if you can sum up in a few  
13 seconds.

14 MR. MONTI: Sure.

15 CHAIRWOMAN CERVENKA: That would be good.

16 MR. MONTI: To summarize, I reject the  
17 idea that fishing will be worse at South Fork. It  
18 will likely be better. More fish is a good thing  
19 both for recreational and commercial fishers, so I  
20 find it hard to ask for compensation when most  
21 recreational fishing will be better during  
22 operations. I understand negative impacts during  
23 construction, and there should be compensation for  
24 that, and fishermen should be compensated, but

1 existing science and experience tells us that  
2 long-term negative impacts will mostly not occur,  
3 but rather be positive impacts. Thank you very  
4 much for allowing me to speak.

5 CHAIRWOMAN CERVENKA: Thank you,  
6 Mr. Monti.

7 MR. MOORE: Next, would be Scott Duhamel.

8 MR. DUHAMEL: Sorry about that. I'm  
9 eating into my precious three minutes.

10 Thank you, Madam Chair. It was a pleasure to  
11 hear Mr. Monti's testimony. Heretofore, we've  
12 heard a whole lot about mitigation, mitigation --  
13 excuse me, I'm Scott Duhamel. I am the  
14 secretary/treasurer of the Rhode Island Building  
15 and Construction Trades. I am an executive board  
16 member of the Rhode Island AFL-CIO. I am an  
17 international rep for the painters union. And I'm  
18 someone, along with many others, who was  
19 intricately involved in the original Block Island  
20 project.

21 As I said, it was a pleasure to hear the prior  
22 testimony. We've heard a whole lot about  
23 mitigation, mitigation, miniaturization,  
24 mitigation. The reduction of the turbines from

1 15 to 12 celebrated as victory by some, is viewed  
2 as a true, hurtful loss by others, including those  
3 I represent.

4 It's an undeniable fact that we're entering  
5 into a brave new world. And it's a gateway to pass  
6 our overreliance on fossil fuels. We all know  
7 that. But let's look at this at the lens of  
8 Rhode Islanders and Rhode Island workers.

9 This is the beginning of a new industry.  
10 We're in the center of it. Our position, our  
11 location, our ports, our prior experience with  
12 Block Island Wind Farm puts us in a unique way. Of  
13 course, this will benefit the people I represent,  
14 the unionized construction workers, and it will  
15 benefit the Rhode Island contractors that they work  
16 for. But if we look further, there's an  
17 opportunity for an ancillary market. There's an  
18 opportunity for businesses, for mom and pops to be  
19 part of the food chain for the wind industry.

20 Once again, I'll restate myself. Rhode Island  
21 is in a unique position to take hold of this and  
22 move on. There are a lot of opportunities out  
23 there. We have -- it's really bright, shining  
24 opportunities. I think it's time that we make the

1 hard and right decision to look at the future to  
2 see what this could develop into and be among the  
3 first in our nation and be in a unique place on the  
4 East Coast to be the center of this action.

5 And, you know, there's the chance, and we're  
6 pushing for it, this is going to bring back  
7 manufacturing, something that everybody knows  
8 there's a dearth of in America. And we could also  
9 be part of that manufacturing chain. That's really  
10 essential to think about.

11 So I would urge everyone to make this  
12 decision, make this decision promptly. Every  
13 minute we slow down, every minute this is delayed,  
14 it hurts the project, and also it hurts the chances  
15 of Rhode Island positioning itself in a unique  
16 place. Thank you very much.

17 CHAIRWOMAN CERVENKA: Thank you,  
18 Mr. Duhamel.

19 MR. MOORE: Next we have Michael Sabitoni.

20 MR. SABITONI: Here we go. Good evening.

21 I'm sorry, I cut into my three minutes as well.

22 Can you hear me at all?

23 CHAIRWOMAN CERVENKA: We can.

24 MR. SABITONI: Madam Chair and members of

1 the Council, my name is Michael Sabitoni. I am  
2 president of the Rhode Island Building and  
3 Constructions Trades Council. I'm also the  
4 business manager of the Rhode Island Laborers  
5 District Council. Both two entities represent  
6 almost 20,000 workers in and around the State of  
7 Rhode Island.

8 And just as full discloser, I'm also the  
9 president and Chairman of Rhode Island Resource  
10 Recovery Corporation. So I know what it's like to  
11 sit in this chair or your chair and make tough  
12 decisions on the future of the State with tough  
13 issues such as this going forward with the emotion  
14 that's wrapped around it. But there comes a point  
15 in time where we need to make decisions, and that's  
16 why you all are sitting on this Council, so we can  
17 move our agenda forward.

18 Now, I've heard words over the last couple of  
19 hearings of certainty, uncertainty, impacts. Let  
20 me give you the certainty that I know and the  
21 impacts. Climate change is a certainty. Energy is  
22 not an easy subject or process.

23 We have an aging grid in Rhode Island, and we  
24 have less generating capacity as we go forward.

1 Our ability to site other traditional generating  
2 capacity, not only in this state but in this  
3 region, has become even more and more difficult.  
4 We have a fragile grid. Example, the  
5 Aquidneck Island in Newport, what they went through  
6 a few years ago or so with our inability to get gas  
7 at the end of the pipeline because of the  
8 difficulties of traditional energy.

9 And offshore wind is our future. We've  
10 embraced it. We have members every day that get  
11 displaced in the traditional energy market. They  
12 employ a lot of our members in the traditional  
13 energy industry, and we've embraced the renewable  
14 concept to create, as my colleague Mr. Duhamel  
15 mentioned, the new industry, the future.

16 You're also seeing in the paper, and you've  
17 seen the announcements of various piece of  
18 legislation, not only in Rhode Island but in the  
19 Northeast, that have been passed about very  
20 aggressive goals for us to meet our renewable  
21 future and mitigate our emissions.

22 And in this area of the country, there's only  
23 one way that we're going to be able to do that and  
24 supply the energy needs of this area of the

1 country. And that is offshore wind. And they do  
2 create good-paying jobs. I've had firsthand  
3 knowledge because I was the one that negotiated the  
4 project labor agreement and shepherded the  
5 Block Island Wind Farm through the PUC, through the  
6 legislature, and saw the impact of the 300 jobs  
7 that were created to just build five, and the  
8 supply chain and the business opportunities that  
9 came with it.

10 I know this is not an easy decision, but at  
11 some point, 30 meetings, difference of opinions  
12 back and forth, that's why you all have been  
13 appointed to sit on a board such as this. If  
14 leaders made easy decisions, everyone would be one.  
15 I don't think this is a tough decision. As a  
16 matter of fact, I think this is a very good  
17 decision.

18 I also think going forward, and I negotiate  
19 for a living, if you have both sides that aren't  
20 quite happy, you probably did the right thing in  
21 mitigating a resolution between two parties that  
22 were real far apart.

23 But I would suggest this as well. We need the  
24 approval of the federal consistency for this



1 South Fork project. We need to get going. We are  
2 in a very precarious situation right now with the  
3 energy needs in this State and the energy needs of  
4 the future. And I trust that with your vision and  
5 courage you will make the right decision and move  
6 our agenda and the agenda for all Rhode Islanders,  
7 and quite frankly across this country. Set the  
8 example for us to get to our renewable future,  
9 create the jobs. And I do think we will absolutely  
10 coexist with the fishermen.

11 I represent blue-collar workers, and I know  
12 how hard it is to be out there and provide food and  
13 sustenance for the citizens of Rhode Island and the  
14 entire country. I also know and believe in my  
15 heart that we can coexist, and we can do this  
16 correctly with your vision and your courage. And I  
17 thank you for your time and the ability to speak  
18 with you here tonight. Thank you.

19 CHAIRWOMAN CERVENKA: Thank you,  
20 Mr. Sabitoni.

21 And just so everyone knows, Mr. Moore -- when  
22 the speaker has reached two minutes and 30 seconds  
23 Mr. Moore will have his virtual hand showing in his  
24 screen, so that's your cue, as a speaker, that you

1 should be wrapping up within the next 30 seconds.

2 Okay.

3 Mr. Moore, we're ready for our next speaker.

4 MR. MOORE: That would be Joe Walsh.

5 MR. WALSH: Thank you, Madam Chair, and  
6 good evening. My name is Joe Walsh, and I am the  
7 business manager for the International Brotherhood  
8 of Electrical Workers, Local Union 99 out of  
9 Cranston, Rhode Island. I represent 800 women and  
10 men craftworkers that labor every day in the  
11 electrical industry in Rhode Island. They live and  
12 work in all 39 cities and towns in the State of  
13 Rhode Island.

14 Local 99 has been developing the renewable  
15 energy sector in Rhode Island for well over a  
16 decade. There are obvious positive impacts to the  
17 economy through gainful employment for the  
18 embracing of burgeoning technologies, but our local  
19 union also recognizes that equally important is the  
20 need to move forward to a renewable energy world  
21 for a sustainable future for the children of our  
22 children.

23 Under the leadership of President Biden and  
24 also the leadership of the State of Rhode Island

1 General Assembly, there is a clear and certain  
2 directive for the nation, and more locally the  
3 great State of Rhode Island, to address the climate  
4 change reality and march towards the goal of a  
5 100 percent renewable world, which is in the not  
6 too distant future. The South Fork Wind project  
7 assists in just that.

8 It is critical that all renewable energy  
9 projects are addressed as seriously as the impact  
10 the climate change on the world that is changing  
11 right before our very eyes. Renewable energy is  
12 not just about saving our planet. It's about  
13 saving humankind and all living creatures that move  
14 upon the earth in the sky and in the water.

15 When critical projects such as this are  
16 proposed, it is essential that people, such as  
17 yourself, evaluate all the different potential  
18 benefits or perceived undesirable impacts. And I  
19 certainly understand that. And I have several  
20 pages of studies and documentation, which I'm going  
21 to obviously skip with my three minutes so I don't  
22 bore you out of your seats.

23 So I will say this, the creation of the  
24 project, such as South Fork Wind, offers our future

1 generation a fighting chance against the implacable  
2 wrath of Mother Nature. Offshore wind, in and of  
3 itself, presents a reasonable and manageable impact  
4 that will be dwarfed by the benefits of reducing  
5 CO2 in clean, safe, and majestic project such as  
6 this.

7       Whereas our nation often lags far beyond the  
8 rest of the developed world in projects such as  
9 this, we are still in the, "it's too new phase,"  
10 where every coffee shop scientist thinks they have  
11 their own rigid positions. As we speak of venturing  
12 into the ocean paths, just the six existing wind  
13 turbines in the United States of America, the rest  
14 of the developed world have installed well over  
15 5,000 offshore wind turbines, as the greatest  
16 nation in the world struggles to get past  
17 .12 percent.

18       Changing the way we generate power is a global  
19 challenge, not simply in a neighbor one. When  
20 electricity is generated, the power goes into the  
21 nationwide electrical grid. It matters little  
22 where the power lands. It only matters what fuel  
23 or lack of fuel was burned to create that energy.  
24 The goals are, of course, to have all states and

1 all waters creating clean, renewable energy in the  
2 next 10 to 40 years.

3 The facts are, these projects are being built  
4 successfully in a worldwide nation, and thankfully,  
5 the fears of negative impacts that any of us could  
6 easily imagine simply have not been realized. I  
7 believe it is also critical to understand that  
8 every career is changing and that is nothing new.

9 As a professional master electrician, my  
10 career changed drastically from the days when my  
11 father toiled in the trade. The hours it took and  
12 materials required to do a project was  
13 significantly reduced from one generation to  
14 another. And much of that very same work is now  
15 done offsite by others. I had to continually  
16 evolve in my craft, and I wish it was -- to stay  
17 viable.

18 My industry will continue to change equally  
19 and as drastically, much faster, as it will be  
20 demonstrated, in just the next few years. The  
21 person on the auto line will now be doing a much  
22 different job with electric vehicles. That  
23 requires many less man-hours. They, too, must  
24 evolve. The cab driver, the accountant, the

1 big-rig driver, the doctor, the grocery clerk are  
2 all facing evolution or extinction. As much as I  
3 wish I can keep everyone's careers as they were in  
4 the days of our grandparents, that is simply not a  
5 luxury that we ever be afforded.

6 If we are truly serious about preserving the  
7 cornucopia that our planet offers as we know it  
8 today, then, on behalf of the men and women of the  
9 IBW Local Union 99, I respectfully request that you  
10 approve the South Fork Wind project, and I thank  
11 you for your time.

12 CHAIRWOMAN CERVENKA: Thank you,  
13 Mr. Walsh.

14 MR. MOORE: Next we have Dave Langlais.

15 MR. LANGLAIS: Am I on?

16 CHAIRWOMAN CERVENKA: You are. And we can  
17 hear you and see you.

18 MR. LANGLAIS: Okay. Thank you,  
19 Madam Chair, Council members. My name is  
20 David Langlais, and I am the business manager of  
21 the ironworkers in Providence, Rhode Island. I  
22 represent over 500 members in Rhode Island and  
23 neighboring Massachusetts and Connecticut.

24 Many of my members had the opportunity to

1 benefit from the jobs that were created by the  
2 Block Island offshore wind farm project, the first  
3 in the United States. Because of these  
4 opportunities, new training initiatives have come  
5 about to train new workforce in this industry.  
6 This training is now being done all across the  
7 region to prepare for these upcoming projects.

8 Offshore wind development is important to  
9 continuing to help the U.S. rely more on renewable  
10 energy sources and become less dependant on fossil  
11 fuels. With the concerns of warming and the  
12 changing climate, this is a terrific opportunity to  
13 do our part in working towards relieving some of  
14 those concerns.

15 This important and valuable industry will  
16 create good paying jobs for men and women who have  
17 been impacted by the COVID-19 pandemic and are  
18 still struggling to get back to pre-pandemic  
19 economic stability.

20 Orsted had committed to utilizing union labor  
21 on this project, as well as port infrastructure  
22 updates. This is evident by the fact that Orsted  
23 and Eversource will be establishing a regional  
24 offshore wind foundation component manufacturing

1 facility at the ProvPort facility. This facility  
2 alone will help bring Rhode Island to the forefront  
3 of the offshore and renewable industry.

4 My members, as well as our brothers and  
5 sisters from Connecticut and New York, are ready  
6 and eager to help in the continued development of  
7 this new and exciting industry being established in  
8 the United States.

9 I strongly support the South Fork Wind farm  
10 and ask that you approve this project. And I thank  
11 you for the opportunity to speak this evening.

12 CHAIRWOMAN CERVENKA: Thank you,  
13 Mr. Langlais.

14 MR. MOORE: Next is Paul Boutiette. I'm  
15 sorry if I'm pronouncing the names wrong.

16 MR. BOUTIETTE: Unmute. Start video.  
17 Okay. Madam Chairman, board, can you hear me?

18 CHAIRWOMAN CERVENKA: We can.

19 MR. BOUTIETTE: Okay. Paul Boutiette.  
20 I'm a recreational fisherman. I'm not a  
21 professional, as the previous speakers have  
22 appeared before you just now. Bear in mind, with  
23 due respect to all of them, they are speaking for  
24 personal gain, for financial gain, so their



1 testimony should be taken to that effect.

2 I'm a recreational fisherman. I fish two or  
3 three days a week, weather permitting, at Cox Ledge  
4 with my wife. We go there religiously. We love  
5 it. Of course, we understand that things have to  
6 change and that renewable energy is the future.

7 However, picking the best fishing spot in the  
8 Rhode Island area just offshore, rather than moving  
9 to a spot that doesn't have all the fish, and  
10 there's plenty of it, baffles me. We've been told  
11 by Orsted, well, you can just fish elsewhere.

12 Well, it's like if you took your favorite  
13 restaurant and they stuck a windmill in the middle  
14 of it and closed it and they said go to McDonald's  
15 across the street. It doesn't quite cut it.

16 It's just, it's a beautiful, natural, wildlife  
17 habitat that will be destroyed. The purpose of  
18 Orsted being here, you know, again, with due  
19 respect, is are they here to work with the  
20 fishermen? Yes. Are they here to promote green  
21 energy? Yes. What's the real reason they're here?  
22 It's to make money. That's the bottom line. And  
23 once they've made their money, they're not going to  
24 be baby-sitting the wind farm. They're going to be

1 counting their money.

2 As far as mitigation goes, I'm a businessman.  
3 I've been in many businesses in my life.  
4 12 million is a drop in the bucket. 5.2 million is  
5 laughable. In a couple of years of doing business  
6 selling small products, we can do that kind of  
7 money. It's not a lot of money. And I really  
8 think it's insulting to be offering a mere  
9 12 million. It's far from the real world out  
10 there, what damages could be. And besides, in  
11 25 years, try and collect any money.

12 I also haven't seen any evidence of  
13 decommissioning. There's been talk about, well,  
14 okay, they'll take it down. Well, in 30 years, the  
15 life of the project is going to fall short, and I  
16 don't see that they'll be able to decommission it,  
17 unless the CRMC has a bond in place that, if they  
18 default and go bankrupt, which they're liable to do  
19 before then. Otherwise, we're going to have a  
20 Stonehenge at Cox Ledge, and it will be there  
21 forever and ever and ever. So I really didn't see  
22 that much on the decommissioning.

23 I'll keep myself brief. Again, Paul Boutiette,  
24 recreational fisherman. And thank you very much,

1 Madam Chairman.

2 CHAIRWOMAN CERVENKA: Thank you,  
3 Mr. Boutiette.

4 MR. MOORE: Next, is Justin Kelley.

5 MR. KELLEY: Yes, hello, Madam Chair --  
6 Chairwoman and members of the Committee. Thank you  
7 so much for having me here this evening. My name  
8 is Justin Kelley, and I am a business  
9 representative for the Rhode Island Painters and  
10 Allied Trades, District Council 11. And I wanted  
11 to speak tonight in favor of the permitting and  
12 siting and allowance of this project for  
13 South Fork Wind farm.

14 I wanted to talk a little bit about the  
15 experience of our members that worked on the  
16 Block Island Wind farm project.

17 You know, we train our members to a very high  
18 standard that meets third-party engineering  
19 standards for industrial coatings and paint  
20 applications. And those men and women worked on  
21 the Block Island Wind Farm project. And let me  
22 tell you, when it was fundamentally  
23 transformational, I mean it was fundamentally  
24 transformational.

1           We watched individuals who came from a place  
2 of urban poverty -- excuse me. Pardon me. I'm  
3 receiving a phone call. A place of living in urban  
4 poverty to being able to buy a house in the  
5 community that they grew up in. Just from working  
6 on this one project. That was five turbines. So  
7 now extrapolating that into this learning project,  
8 we fully expect, and it is our expectation at the  
9 IU-PAT, that this will create a large number of  
10 jobs for the industrial painters, not only the  
11 installation process, but as my colleague  
12 Scott Duhamel had alluded to, also in the  
13 manufacturing supply chain.

14           We honestly hope that these turbines will last  
15 a very long time offshore. And in that maintenance  
16 process, that work is something that we do. And we  
17 can ensure that those turbines will last out on the  
18 water. So, again, we expect there to be a sizable  
19 amount of high-paying, middle-class jobs created  
20 from this project and the others that follow. And  
21 I'm glad to take any questions, but we urge passage  
22 and approval.

23                   CHAIRWOMAN CERVENKA: Thank you,  
24 Mr. Kelley.

1 MR. KELLEY: Thank you so much.

2 MR. MOORE: Next, I have Mike Jarbeau.

3 Mike, can you raise your hand for me.

4 MR. JARBEAU: Thank you, Madam Chair,  
5 members of the Council. My name is Mike Jarbeau  
6 with Save the Bay. Save the Bay was one of the  
7 many participants in the Ocean SAMP process. We  
8 are proud of the hard work that was done in order  
9 to proactively prepare the State for the exact type  
10 of situation that we find ourselves in tonight.

11 We submit that the Council must uphold the  
12 enforceable policies set forth in the SAMP and find  
13 that the project is not consistent with the  
14 enforceable policies within it. The staff summary  
15 analysis makes an extremely strong case that the  
16 project is not consistent with the SAMP. But  
17 surprisingly, it concludes with the recommendation  
18 for conditional approval.

19 The staff's recommendation is not supported by  
20 its own analysis. The extensive time and planning  
21 efforts undertaken by staff and stakeholders in the  
22 process of the SAMP are all for naught if the  
23 Council does not uphold these enforceable policies.

24 Save the Bay fully supports wind energy

1 properly sited. However, based on the extensive  
2 analysis prepared by staff, the project is not  
3 properly sited, nor is it consistent with the  
4 Ocean SAMP. The enormous potential impacts to our  
5 coastal resources, including unique, essential fish  
6 habitat from project construction, installation,  
7 operation, and decommissioning are irreversible.

8 As currently constituted, the proposal is not  
9 consistent for two main reasons. First, as stated  
10 by staff, the location of the South Fork Wind  
11 project on Cox Ledge is, in our view, the worse  
12 possible location within Rhode Island Sound. We  
13 agree.

14 While we understand there are risks of habitat  
15 loss to meet wind energy goals, this project will  
16 disrupt some of the most valuable habitat in  
17 Rhode Island Sound. For example, Cox Ledge is one  
18 of the few remaining places within the Sound where  
19 Atlantic cod are found at all life stages.

20 While all fish habitat is important, spawning  
21 and nursery areas are especially important for  
22 providing shelter for these species during their  
23 most sensitive times in their lifecycles. CRMC  
24 staff determined that, despite modifications to the

1 proposed project, the project will have adverse  
2 impacts on our coastal resources and uses.

3 Secondly, and finally, the applicant  
4 reconfigured the lease, precluding alternative  
5 locations without opportunity for Rhode Island's  
6 input. As stated again by staff, Orsted created  
7 their own hardship when they segregated the lease  
8 area from a much larger lease during BOEM's ongoing  
9 DEIS process. This eliminated the feasibility for  
10 alternative to relocate the turbine foundations to  
11 avoid damage to the glacial moraine and resources  
12 found on Cox Ledge. Simply put, the applicant  
13 should not be rewarded for reconfiguring the lease  
14 area, knowing that CRMC wanted the project located  
15 outside the glacial moraine.

16 If the Council certifies the project as  
17 consistent, it will make a mockery of the process  
18 and the Ocean SAMP, set a dangerous precedent, and  
19 validate a playbook for other developers to  
20 leverage. It's the Council's duty to uphold these  
21 enforceable policies. And the staff's expert  
22 analysis provides overwhelming evidence for denial,  
23 not nearly enough to justify a consistency  
24 determination.

1           To conclude, Save the Bay submits that the  
2 project is not consistent with CRMC's federally  
3 approved coastal management program, even with the  
4 recommended conditions. This might be the correct  
5 project, but it's certainly not the correct  
6 location. Thank you for your time.

7           CHAIRWOMAN CERVENKA: Thank you,  
8 Mr. Jarbeau.

9           MR. MOORE: Next, I have Pat Crowley.

10          MR. CROWLEY: Good evening, Madam Chair,  
11 members of the committee. My name is  
12 Patrick Crowley. I am the secretary/treasurer of  
13 the Rhode Island AFL-CIO. On behalf of the 80,000  
14 working women and men of the Rhode Island labor  
15 movement, we are in support of the proposal before  
16 you tonight, and we urge you to move it forward.

17          You've heard from my brothers in the building  
18 trades and the excellent work that they are doing,  
19 both on the current wind projects that are already  
20 in operation, but also in the steps that they are  
21 taking to do their part to make sure that  
22 Rhode Island and the entire New England community  
23 takes the steps necessary to transition in a just  
24 way to a green economy.



1           The men and women of the Rhode Island building  
2 trades have done heroic work in moving our economy  
3 in a direction that will meet both 21st century  
4 labor standards and a just economy built upon new,  
5 sustainable means of powering our workforce. Their  
6 testimony was powerful, and I hope you give it the  
7 weight that it deserves, as I know you will.

8           So on behalf of the working men and women of  
9 the Rhode Island AFL-CIO, thank you for your time  
10 tonight, and we urge you to support the proposal.  
11 Thank you.

12           CHAIRWOMAN CERVENKA: Thank you,  
13 Mr. Crowley.

14           MR. MOORE: Next is Gary Yerman.

15           CHAIRWOMAN CERVENKA: Mr. Yerman, we can't  
16 see you or hear you. You'll need to unmute  
17 yourself and turn on your video. There you go.

18           MR. YERMAN: There we go. Yeah, good  
19 evening. My name is Gary Yerman. I've been a  
20 commercial fisherman for 49 years. My son, also a  
21 fisherman, and I own New London Seafood  
22 Distributors, a New London-based seafood unloading  
23 facility for 31 years.

24           As a fisherman, I've worked these waters for

1 years. I'm very protective of the livelihood of my  
2 fishermen, and I wouldn't support something that  
3 risks our fishing fleets. I was just as skeptical  
4 as any fisherman in the beginning. It took years  
5 of research and constant meetings with Orsted  
6 before I could support this project.

7 At first, I thought fishermen would be  
8 completely shoved aside for these developments.  
9 Instead, Orsted and Eversource engaged with us to  
10 hear us out, hear our concerns, both in meetings  
11 and in writing. I'm skeptical about those who say  
12 they've been ignored by offshore wind. That has  
13 not been the case in our experience.

14 Three years ago, I had the opportunity to see  
15 coexistence between fishing and offshore wind  
16 firsthand in Kilkeel, Northern Ireland. I saw a  
17 successful fishing industry that grew alongside  
18 offshore wind. I also spoke with fishermen who  
19 were veterans of their areas. They were skeptical  
20 at first as well, but they recognized the  
21 opportunity and found success and stability because  
22 of it.

23 We had the opportunity to do a pilot contract  
24 with Orsted last year. What we found was an

1 opportunity to supplement our fishing work and  
2 bring more stability to our fishermen. Future work  
3 with offshore wind will allow fishermen to go  
4 fishing when profitable and work their vessels with  
5 offshore wind, rounding out their bottom line.

6 Orsted and Eversource have already shown that  
7 they want to work with local businesses and  
8 fishermen. Every fishing community will find new  
9 opportunities available, stimulating the local  
10 labor force and economy.

11 Orsted is the largest wind developer in the  
12 world. They got there by having safety standards  
13 above international marine safety standards.  
14 Fishing vessels that are picked to work with Orsted  
15 must meet these standards before they go to work.  
16 One Orsted safety inspector explained to me, even  
17 though we're a big company, every single work --  
18 every single person working for us, safety and  
19 training leads to less accidents. That is their  
20 goal.

21 I've had the opportunity to participate in one  
22 of Orsted's simulators in Middletown, Rhode Island,  
23 recently. Having been in the wheelhouse of large  
24 offshore trawlers for the past 40 years, my virtual

1 experience sailing in an offshore wind farm proved  
2 it's easier to navigate than many major waterways.  
3 At 1 nautical mile apart, wind farm spacing is  
4 wider than the Thames River Channel, where I have  
5 had to watch out for submarines and ferries coming  
6 and going at night in a pea soup fog.

7 Fishermen are professional mariners, used to  
8 working in close proximity with other vessels on a  
9 regular basis. The wind farm spacing at 1 nautical  
10 mile is much closer than in Europe, and the  
11 fishermen there amongst the wind farms, they  
12 navigate amongst the wind farms with very little  
13 difficulty.

14 Thank you for the opportunity to speak  
15 tonight. I'm in favor of the wind farms.

16 CHAIRWOMAN CERVENKA: Thank you,  
17 Mr. Yerman.

18 MR. YERMAN: Thank you.

19 MR. MOORE: Next, I have James McKinsey  
20 see on behalf of Gordon Videll.

21 MR. MCKINSEY: Good evening, Council  
22 members, and thank you for this opportunity to  
23 speak. My name is James McKinsey, and I'm here  
24 today to speak on behalf of Sea Services North

1 American.

2 Sea Services negotiates scout and safety  
3 vessel contracts for local fishermen to create job  
4 opportunities to support offshore wind projects.  
5 Gordon, our CEO, regrets he is unable to attend  
6 this evening, as he had last week, to share his  
7 comments. He has his daughter's high school  
8 graduation this evening.

9 After years of vetting facts and understanding  
10 the national need to adopt renewable energy  
11 solutions, Sea Services and our partner fishermen,  
12 some of them whom already spoke this evening, want  
13 to voice our full support for the South Fork Wind  
14 project and the economic potential it brings to  
15 Rhode Island and the commercial fishing industry.

16 I want to respond directly to a comment made  
17 earlier by Deputy Director Boyd, in which it was  
18 stated that periods of the construction would have  
19 the greatest impact on commercial fishermen.

20 Sea Services would argue, that this is also the  
21 period for the greatest economic opportunity for  
22 these fishermen, as offshore wind developers are  
23 going to need to work with local, knowledgeable  
24 fishermen who know these waters for scout and

1 survey work, as well as other contracts that we  
2 have yet to anticipate.

3 Sea Services has actually been fortunate to  
4 already do work with Orsted specifically to support  
5 offshore wind and create these economic  
6 opportunities. Last summer, as Gary just  
7 mentioned, Sea Services was hired to perform scout  
8 work for an Orsted survey team. We're proud to  
9 report, that not only did our boats work  
10 seamlessly, because of the partnership there were  
11 zero incidents of equipment strikes, which is  
12 unheard of in this industry. While working with  
13 the offshore wind developer, there were no  
14 problems, and we've already secured a second  
15 contract. So just a further example of economic  
16 opportunity.

17 What's been described by opponents of this  
18 project is not remotely the experience Sea Services  
19 had just last year. Orsted is filled with people  
20 who are trying to build a relationship with  
21 commercial fishermen. We've even found  
22 opportunity, growth, and stability in working  
23 collaboratively with them.

24 That said, as Gary just mentioned,

1 Sea Services was founded by a sceptical fisherman  
2 who wanted to protect our waters. To learn more,  
3 Gordon, and several other future founders of Sea  
4 Services, met with fishing communities in Europe to  
5 speak directly with the fishermen who have been  
6 working with offshore wind developers for years.  
7 What they found was a remarkable story of growth,  
8 stability, and financial freedom for those who  
9 worked to build an environment of coexistence with  
10 offshore wind. This experience is completely  
11 contrary to the uncertainty that others described  
12 last Friday.

13 We have the opportunity to work with the best  
14 offshore wind developers in the world to build new  
15 opportunities for our industry, our community, and  
16 our families. We cannot afford to lose this  
17 opportunity to misinformation. And it was ironic  
18 to hear last week that environmental arguments were  
19 being made against a renewable energy project being  
20 built by one of the greenest companies in the world  
21 according to Forbes.

22 Sea Services can't strip away all of the  
23 misinformation or red herrings that are out there  
24 right now, but we do want to address one example

1 that was given last week that worked to create  
2 problems rather than seek solutions.

3 The 1 mile turbine distance was compared to a  
4 telephone pole being placed in the middle of a  
5 two-way highway, or earlier this evening, in the  
6 middle of a restaurant. And while it's true that  
7 adding any element to open water creates an  
8 obstacle, there's a decade of data on fishing  
9 vessels working safely in smaller project areas  
10 around the world. And by smaller, I mean, tighter,  
11 less than a nautical mile. We're surprised that  
12 the comment was made without putting it in the  
13 proper perspective.

14 A standard two-lane highway, according to  
15 interstate highway standards, is 24 feet wide, not  
16 including emergency lanes. With an average car  
17 width of 6 feet, that means two passing cars would  
18 take up about 50 percent of the transit space.

19 In this offshore wind farm, the turbines will  
20 be a nautical mile apart or roughly 6,000 feet,  
21 roughly. The largest ship in the world is 223 feet  
22 wide. If two of these massive vessels were to pass  
23 each other in the wind farm, they'd take up  
24 7.4 percent of the transit space. That's pretty



1 different than the two-way highway analogy.

2 I'd also add that -- this is using the example  
3 of the largest ships in the world. If we're using  
4 a standard commercial fishing boat, like 30-feet  
5 wide, it would take about 1 percent for both -- of  
6 the transit space for both of them to pass each  
7 other.

8 Sea Services thinks that 99 percent of the  
9 navigation area is enough room for our seasoned  
10 fishermen, plus cars don't have navigation  
11 equipment and don't travel at only about 10 miles  
12 an hour.

13 Arguments can be made about weather, manning,  
14 seas, but this language is counterproductive to  
15 bringing people together and trying to accomplish  
16 the same things that have already been accomplished  
17 in fishing communities in Europe.

18 Orsted and Eversource have worked hard to  
19 inform, reduce impact, and create opportunities for  
20 commercial fishermen. None of this would be  
21 possible without the support of the JV, and their  
22 efforts to coexist should be acknowledged, rather  
23 than indiscriminantly attacked.

24 Sea Services believes that now is the time to

1 set aside the rhetoric and find creative solutions  
2 to coexistence.

3 Thank you again for the opportunity to speak  
4 this evening, and Sea Services is in favor of  
5 South Fork Wind and building a collaborative future  
6 for the offshore wind industry and our local  
7 fishermen.

8 CHAIRWOMAN CERVENKA: Thank you,  
9 Mr. McKinsey.

10 MR. MOORE: Next, I have  
11 Frederick Mattera.

12 MR. MATTERA: Can you hear me?

13 CHAIRWOMAN CERVENKA: Yes, we can.

14 MR. MATTERA: Thank you. Thank you,  
15 Madam Chairman and CRMC Council, for this  
16 opportunity. My name is Fred Mattera. I started  
17 fishing in 1972.

18 So I've been in this industry for 49 years. I  
19 was a commercial fisherman for 40 years. I'm  
20 president of the Point Club, which is a mutual  
21 insurance group covering now -- insuring over  
22 50 vessels here in Rhode Island and Southern  
23 New England. I'm a U.S. Coast Guard marine safety  
24 instructor, president of the Commercial Fisheries

1 Research Foundation, and executive director of  
2 Commercial Fisheries Center representing nine  
3 fishing associations.

4 I'd just like to start off to just make some  
5 comments about what I've just heard recently. And  
6 trust me, I have a tremendous amount of respect for  
7 union leaders. I've met Mike and some of the  
8 others for a long time. But this is for personal  
9 prosperity. And, you know, my concern is that  
10 you're not looking and facing the livelihoods that  
11 are jeopardized into the future.

12 And let me also just make a point. I've been  
13 out to sea for a lot of years, and I will tell you  
14 right now, those blue-collar workers in the trade  
15 that will go out to the turbines, I'll guarantee,  
16 50 to 60 percent of them will be so seasick they  
17 won't be able to do their jobs. So there's a lack  
18 of -- that's a concern.

19 Sea Source -- Sea Service, excuse me, is an  
20 excellent company. I've known Gary for many years  
21 and Mike. But when that last gentleman spoke about  
22 what happens 100 percent of the industry will be  
23 shut down during construction, he's talking one to  
24 three vessels that may be doing some scout and

1 monitoring. That's not hundreds of vessels that  
2 will be participating out there. So I just want to  
3 reflect on that.

4 I want to go back, and just using my 40 years  
5 of experience, and say that fishing operations in  
6 and around the area will be altered for the entire  
7 life of the project, possibly after. There will  
8 undoubtedly be navigational challenges traveling  
9 through this area without proper transit lanes.  
10 One nautical mile east-west/north-south does not  
11 provide adequate space for this large number of  
12 mariners traveling through this area. Many of  
13 these mariners will also be traveling from  
14 northwest to southeast on a diagonal of .7 nautical  
15 miles.

16 That last gentleman talked about, you know,  
17 wind farms all over the world. And that, you know,  
18 there weren't issues. They didn't have problems.  
19 Well, they don't have problems because they're not  
20 allowed to steam or fish in and around those  
21 turbine sites. The only place, especially in the  
22 North Sea, that allows it is the UK.

23 And as I'll go on and explain, that I have  
24 been a director for the second largest marine

1 insurer in the world. And that's from the UK. And  
2 I've been there for 21 years as the director,  
3 representing the United States on their board. I  
4 have been all over the UK visiting fishermen. And  
5 I'm sorry, but all the fishermen I spoke to, they  
6 didn't have positive things. They basically said  
7 don't do what we did. You know, make sure you get  
8 the right compensation and mitigation part. Make  
9 certain you can -- you know, these sites are bigger  
10 and they're further apart.

11 The fishermen that have done the research  
12 there, the fishermen that have fished on those  
13 grounds refuse and won't go back. They don't go  
14 back to those grounds because of fear of collisions  
15 and everything else and limited spacing. So, you  
16 know, it's -- there are -- there are issues there,  
17 and they need to be addressed, and you need to hear  
18 it from those people that have dealt with it for  
19 many, many years.

20 This Sunderland Marine that I represent,  
21 represents 16,000 vessels spanning on every  
22 continent in the world. And believe me, I possess  
23 a profound understanding of measuring risk and its  
24 cost. There 's no doubt that, without wider

1 transit lanes, mariners will experience numerous  
2 marine incidents causing excessive vessel damage  
3 and vessel loss and major injuries and loss of  
4 lives triggering insurers to void coverage through  
5 exclusions in their policies, eliminating fishing  
6 and steaming through the Southwest Fork (sic) lease  
7 site.

8 I'll give you a slight example. Woods Hole --

9 CHAIRWOMAN CERVENKA: Mr. Mattera, you are  
10 over your time. So if you can give us your  
11 example, wrap up, that would be good.

12 MR. MATTERA: Wow. Then I will finish  
13 with my last statement.

14 CHAIRWOMAN CERVENKA: Okay.

15 MR. MATTERA: And please understand that  
16 this issue may be perceived as controversial and  
17 contentious; however, it needs to be considered in  
18 a professional manner.

19 The fishing industry is concerned that the  
20 CRMC staff recommendations do not match their  
21 analysis, which seems to suggest an objection. And  
22 the industry are concerned that this is because  
23 possible pressure, namely from NOAA and  
24 Dave Kaiser. It's particularly concerning that

1 there was no discussion of removing turbines and a  
2 remedy during the mitigation process. And it  
3 defies logic that giving back several of the  
4 turbines from the developers doesn't change the  
5 recommended mitigation amount.

6 The staff needs to disclose in their  
7 recommendation if their recommendation is based on  
8 a fear of getting overturned on appeal. It should  
9 be CRMC Council making the decision that is best  
10 for Rhode Island. And they need to have the  
11 information to decide. The Council can't make this  
12 decision appropriately if the staff has probably  
13 conceded to NOAA behind the scenes. So I request  
14 CRMC Council to deny this concurrence. Thank you.

15 CHAIRWOMAN CERVENKA: Thank you,  
16 Mr. Mattera.

17 MR. MOORE: Next is Laura Taricani -- I'm  
18 sorry -- Laurie Taricani.

19 MS. WHITE: Good evening, Madam Chair and  
20 members of the Council. My name is Laurie White,  
21 and I am president of the Greater Providence  
22 Chambers of Commerce, and I am here on behalf of  
23 the Chamber tonight to speak in favor of the  
24 South Fork project. It is no secret that the

1 economy faced a major setback because of the work  
2 that's been done over the last several months in  
3 response to the COVID virus and the opportunity  
4 that we have before us to rebuild our economy.

5 It is also clear that strong and robust  
6 economic growth will come from investment in  
7 renewable green energy, as we discussed tonight,  
8 and our states and the country must begin to invest  
9 in the energy infrastructure that will power us to  
10 a sustainable future. And here in Rhode Island we  
11 have already made great strides in being a leader  
12 in offshore wind.

13 Here in Rhode Island, of course, we do know  
14 that good-paying jobs and incredible investment  
15 comes from offshore wind and empowering those who  
16 seek to change the future of American energy.  
17 Orsted has shown great commitment to the people of  
18 Rhode Island and by locating their innovation hub  
19 here in our state and ensuring deep ties to the  
20 state and those who put offshore wind turbines in  
21 the water.

22 Climate change is an evolving threat that  
23 endangers coastal economies and states, and  
24 mitigation experts feel that renewable energies



1 will be essential to the long-term health of the  
2 environmental economy, in addition to the jobs that  
3 we've heard about tonight, in addition to the  
4 supply chain opportunities that exist for  
5 Rhode Island, and in addition to continuing to put  
6 Rhode Island on the map as a leader in offshore  
7 wind.

8 In conclusion, on behalf of the  
9 Greater Providence Chamber of Commerce, I'd like to  
10 thank you for affording me this opportunity to  
11 speak with you this evening, and I encourage you to  
12 approve the South Fork Wind farm. Thank you very  
13 much.

14 CHAIRWOMAN CERVENKA: Thank you,  
15 Ms. White.

16 MR. MOORE: Next, I have James Spalt.

17 MR. SPALT: Good evening, Madam Chair and  
18 Board members. Thanks for allowing me to speak.  
19 My name is James Spalt. My brothers and I own and  
20 operate lobster and crab boats, as well as a day  
21 scallop boat out of New Bedford. In addition to  
22 that, we've all got extensive experience managing  
23 and operating vessels in the Gulf of Mexico in the  
24 oil and gas fields. So I thought it might be

1 helpful for me to just share some of our  
2 experiences from the Gulf of Mexico, as it relates  
3 to some of the discussions that are taking place  
4 here in regard to the wind farms.

5 MR. DeSISTO: Madam Chair, excuse me, and  
6 I'm sorry, Mr. Spalt, but did I hear that your  
7 boats operate out of New Bedford?

8 MR. SPALT: Yes.

9 MR. DeSISTO: Okay. And I want to just  
10 advise the Council on that. The purpose of the  
11 regulatory oversight for CRMC is the shore side  
12 effects in Rhode Island. So I'm not so sure that  
13 testimony from this fisherman, operating out of a  
14 Massachusetts' port, who's going to discuss matters  
15 in the Gulf of Mexico, are relevant to the  
16 exercise.

17 CHAIRWOMAN CERVENKA: Okay. Well, thank  
18 you for pointing that out. We'll consider that as  
19 to weight. Go ahead, Mr. Spalt.

20 MR. SPALT: Okay. So, you know, I just  
21 would like to highlight that, you know, in  
22 comparison to what you get from large oil and gas  
23 operators, the cooperation that you've seen from  
24 Orsted and other developers in regard to fishermen

1 is exceptional. Certainly never -- you know, I've  
2 never seen anything like that come from the likes  
3 of an ExxonMobil or a Shell.

4 As far as recreational fishing goes, I think  
5 it's certainly difficult to deny that there may be  
6 some impact to fishing during the construction  
7 process. However, I think, you know, beyond that  
8 process, you know, the wind farms would provide an  
9 overall net positive.

10 Fishing in the Gulf of Mexico or on the rigs  
11 is world class, and it's some of the best that I've  
12 experienced. We think that, you know, in general,  
13 there's a great opportunity to, you know, cooperate  
14 with the wind farms and potentially derive an  
15 additional source of income. That's all. Thank  
16 you.

17 CHAIRWOMAN CERVENKA: Thank you,  
18 Mr. Spalt.

19 MR. MOORE: Next, is Nicole DiPaolo.

20 MS. DiPAOLO: Hello, chair members and  
21 Madam Cervenka, Madam Chair. Thank you for this  
22 opportunity to speak tonight on behalf of the  
23 consistency certification for South Fork Wind farm.  
24 My name is Nicole DiPaolo, and I am testifying on

1 behalf of the National Wildlife Federation, whom I  
2 work for on their offshore wind program.

3 And I am a Rhode Islander born and raised, and  
4 I'm really proud to live in this state that was the  
5 first champion of offshore wind energy and even  
6 more a champion for doing it right. And to us,  
7 doing it right means attention to responsible  
8 development and really thorough stakeholder  
9 engagement.

10 We believe that the Ocean SAMP process is a  
11 really strong example of this stakeholder  
12 engagement. Getting input from all stakeholders  
13 and using as many outlets as possible to reach the  
14 public and get them involved in this process.

15 Now, nearly a decade later, offshore wind  
16 energy is poised to take off with the Biden  
17 administration's commitment to double down climate  
18 solutions, to commit 40 percent of all benefits to  
19 disadvantaged communities, and deploy 30 gigawatts  
20 of offshore wind by 2030.

21 The National Wildlife Federation has long  
22 advocated for the responsible development of this  
23 resource, and with the national goal of this scale,  
24 we are committed, now more than ever, to ensuring

1 that it's done right.

2 Our support for responsibly developed offshore  
3 wind hinges on two key components. First, an  
4 assigned space. So the best available science,  
5 technology, and data are used to assess, avoid,  
6 minimize, and mitigate impacts to wildlife and  
7 marine and terrestrial environments and ecosystems.

8 And second, that it's people centered. That  
9 the transition to renewable energy is informed by  
10 all stakeholders, centers, disadvantaged  
11 communities that have been most impacted by our  
12 current energy systems, provides the support --  
13 adequate support for folks to participate in --  
14 participate in and receive the environmental help  
15 and economic benefits of the clean energy economy,  
16 including domestic content and use of unionized  
17 labor and workers' protection. So I'm really  
18 grateful for all the awesome labor testimony --  
19 testimony from the union members tonight.

20 So we believe that it's possible to build this  
21 industry with stringent wildlife and habitat  
22 protections in place every step of the way.  
23 Avoiding, minimize -- minimizing and mitigating  
24 impacts to a coastal marine environment. Again,

1 that is key to our support of this -- the  
2 development of this resource.

3 And with these components, we call on the  
4 State of Rhode Island to do everything in its power  
5 to ensure that projects are developed responsibly  
6 with these strong protections in place, especially  
7 for our most vulnerable species, like the  
8 critically endangered North Atlantic right whale.

9 Ensuring that strategy to minimize potential  
10 impacts from offshore wind development activities  
11 keep pace with the changing ocean conditions,  
12 requires careful and persistent intention. And we  
13 look to the State of Rhode Island, federal  
14 regulators, and project developers to ensure this  
15 industry advances responsibly.

16 While responsible development of large  
17 infrastructure projects in federal waters is  
18 certainly a challenge, we believe that it's one  
19 that we must take on. The potential benefits of  
20 responsibly developed offshore wind power are  
21 difficult to oversee. States across the nation are  
22 relying on offshore wind energy to meet their  
23 energy goals that are necessary for the prosperity  
24 of our economy in the face of a rapidly changing

1 climate.

2 A new report from the National Resources  
3 Defense Council estimates that financial costs to  
4 our health and fossil fuel generation -- generated  
5 air pollution and climate change surpass  
6 \$820 billion in health costs each year in the U.S.  
7 alone, and that this burden falls heaviest on  
8 vulnerable communities.

9 Advancing equitable climate solutions is  
10 especially important for historically marginalized  
11 communities that are highly concentrated in  
12 formerly redlined districts that can be, on  
13 average, 12.5 degrees warmer than non-redlined  
14 districts. And higher temperatures result in  
15 increased air pollution, resulting in premature  
16 death, higher risk of health stroke, and other  
17 heat-related illnesses, as well as adverse  
18 development reproductive and carcinogenic effects.

19 Additionally, offshore wind is the largest  
20 scale utility, clean energy resource for northeast  
21 states to transition from fossil fuel power plants,  
22 create tens of thousands of jobs with a just  
23 transition for fossil fuel workers, provide  
24 economic benefits for states and historically

1 marginalized individuals, and prevent tons of  
2 carbon emissions from being released into the  
3 atmosphere.

4 In conclusion, while our support for offshore  
5 wind development is entirely contingent on it being  
6 done right by wildlife and communities, it is also  
7 urgent, in the face of climate change, that we  
8 harness this untapped resource and the abundant  
9 benefits it has to offer.

10 We urge the CRMC to recognize the value of  
11 offshore wind opportunity and support moving this  
12 critical climate solution forward in a manner that  
13 works with Rhode Island's environment and  
14 communities.

15 We look forward to working together to ensure  
16 this and all projects built off the coast of  
17 Rhode Island meet federal consistency requirements  
18 of the Coastal Zone Management Act through  
19 compliance with the State's Ocean SAMP and are  
20 developed responsibly with strong protections in  
21 place for our most vulnerable wild -- coastal and  
22 marine wildlife. Thank you so much.

23 CHAIRWOMAN CERVENKA: Thank you,  
24 Ms. DiPaolo.



1 MR. MOORE: Next, I have Dennis --

2 MR. LASSIGE: Lassige.

3 MR. MOORE: Lassige. Sorry.

4 MR. LASSIGE: Thank you. And thank you,  
5 Madam Chairman. My name is Dennis Lassige, and I  
6 represent the North Atlantic States Regional  
7 Council of Carpenters. I speak for the 2,200  
8 carpenters, pile drivers, and millwrights within  
9 Rhode Island, and today I'm speaking in full  
10 support for South Fork Wind.

11 At the national level, our organization is  
12 strongly aligned with President Biden's executive  
13 order, which puts the current climate crisis front  
14 and center and directs all agencies of the federal  
15 government to do what can be done to combat it. It  
16 is folly to ignore the urgency of this directive  
17 and impede these efforts.

18 At a regional level, we applaud the mandates  
19 in the various states of the Northeast for a just  
20 transition to renewable energy in an aggressive but  
21 wholly appropriate time frame. This project is a  
22 viable and much-needed means to achieve those  
23 mandates. We believe in a clean energy future and  
24 a just transition to that future, that includes the

1 creation of family sustaining jobs for the workers  
2 who build and operate the new clean energy  
3 facilities and generators.

4 We support an industry that recognizes the  
5 value and necessity of a professionally trained,  
6 highly productive workforce committed to the same  
7 goals as South Fork Wind, a just transition to a  
8 clean energy future. And we emphasize the support  
9 of the North Atlantic States Regional Carpenters of  
10 Carpenters for South Fork Wind, and we thank you  
11 for the opportunity to speak.

12 CHAIRWOMAN CERVENKA: Thank you,  
13 Mr. Lassige.

14 MR. MOORE: Next, is Matt Linnell.

15 MR. LINNELL: Good evening. My name is  
16 Matt Linnell. I'm a commercial fisherman. I have  
17 been commercial fishing for over 35 years, and I  
18 have fished in the past in this area with gillnets,  
19 mainly in the fall and early spring for skate and  
20 dogfish. Most of the fixed gear fishing in the  
21 area is lobster and crab gear. The way the  
22 South Fork windmills are being placed should have  
23 minimal effects. They may even enhance the area  
24 because they are being placed on softer bottom.

1 This will add some more structure to the area.

2 With oceans warming we need -- we all need to  
3 do our part to reduce carbon emissions. If I  
4 didn't believe that wind and fishing couldn't  
5 exist, I wouldn't support it. I don't feel there  
6 will be any navigation issues, being that they are  
7 a mile apart. That is plenty of room to navigate  
8 through them. If you've seen boats in a closed  
9 area fishing for scallops, we're on top of each  
10 other all the time, and there's no accidents.

11 I'm assuming there will be some sort of AIS or  
12 automatic identification systems. With all the  
13 modern electronics we have, it shouldn't be a  
14 problem to navigate through.

15 I also feel the charter business will benefit,  
16 more structure to fish off of. I think another  
17 benefit will be tours. I noticed Block Island has  
18 some tours to see their windmills. I'm sure -- I'm  
19 sure that this will become an attraction for some.

20 After looking at some of Orsted's other  
21 projects around the world, they have gone above and  
22 beyond to appease the fishermen. Being a fixed  
23 gear fisherman, you will move somewhere else during  
24 the construction. No fisherman is going -- no

1 fisherman in their right mind is going to risk  
2 losing gear, especially when they know exactly  
3 where the construction is going to be. If the  
4 noise is a problem, which has been stated, why  
5 would you want to haul empty fishing gear in that  
6 area? I don't really need the practice.

7 In conclusion, I feel wind has great potential  
8 to meet the future energy needs in the future. I  
9 know people are resistant to change, but I know I  
10 am -- I know I am, but these leases have a change  
11 for the better I feel. Thank you.

12 CHAIRWOMAN CERVENKA: Thank you,  
13 Mr. Linnell.

14 MR. MOORE: Next, is Tom Giordano.

15 MR. GIORDANO: Good evening. Thank you  
16 for the time. My name is Tom Giordano, and I'm the  
17 executive director of the Partnership for  
18 Rhode Island. Partnership for Rhode Island is a  
19 CEO roundtable of the largest employers in the  
20 state, from Brown University to CVS,  
21 Blue Cross/Blue Shield, Hasbro, Amica, and  
22 Electric Boat.

23 Our partnership is brought together with the  
24 common idea that Rhode Island should have a

1 thriving economy and should lead on important  
2 issues. Offshore wind and climate change are two  
3 of those. South Fork will bring jobs and  
4 infrastructure and investment to this State. We're  
5 also excited about the innovative and economic  
6 growth, especially coming out of this pandemic,  
7 that could be transformative for our economy.

8 While my board members and their companies  
9 continue to hire Rhode Islanders, large  
10 infrastructure projects, and the investment that  
11 comes with them, have the potential to outgrow any  
12 organic growth by anchor institutions. And we see  
13 South Fork Wind as a tremendous opportunity to  
14 attract new, innovative employers to our State.

15 We're also impressed by the proposed  
16 investment in ProvPort and excited that ProvPort  
17 will be on the ground floor of a new American  
18 industry, and that's really exciting.

19 Orsted has done a great job by helping to  
20 build a system itself by moving their U.S.  
21 headquarters here and starting an innovation hub.  
22 And we've seen supply chain companies follow them.  
23 The economic benefits that will come to  
24 Rhode Island and to our neighbors with the

1 commitment to green energy will help our planet and  
2 help our economy, especially coming out of a time  
3 of need we are in now.

4 I'll stay short and say that I hope this Board  
5 approves the South Fork Wind farm because the  
6 economic benefits that will -- -

7 THE REPORTER: You're breaking up a little  
8 bit for me. The last couple words you said were  
9 breaking up. Can you repeat them.

10 MR. GIORDANO: I apologize. In summation,  
11 just closing up, the economic benefits for us here  
12 in Rhode Island and beyond that with ours and our  
13 neighbors' commitments to green energy will help  
14 heal our planet and our economy, which will surely  
15 need it as we come out of the pandemic economy.

16 In finishing up, I want to thank you for your  
17 time. I've been on this call, as many of you -- or  
18 all of you have for now, you know, seven or eight  
19 hours since the last meeting, so thank you for your  
20 time. I'll keep mine short, but I hope and  
21 encourage you to approve the South Fork Wind farm.

22 CHAIRWOMAN CERVENKA: Thank you,  
23 Mr. Giordano.

24 THE WITNESS: Thank you.

1 MR. MOORE: Next, is Kate Almeida.

2 MS. ALMEIDA: Thank you. Can you all hear  
3 me?

4 CHAIRWOMAN CERVENKA: Yes, we can.

5 MS. ALMEIDA: Thank you. My name is  
6 Katie Almeida, and I work for the Town Dock, a  
7 family owned company that's been in Point Judith  
8 for over 41 years. We own six fishing vessels that  
9 are otter trawl vessels that fish primarily for  
10 squid.

11 The debate here tonight is not about whether  
12 or not these farms should be built. I think we all  
13 know that they're going to be built, and they're  
14 going to be put in. It's about building  
15 responsibly.

16 I'm hearing such a lack of concern for the  
17 effects of the ecosystem, and that's frightening  
18 for people who depend on a healthy ecosystem and a  
19 thriving ocean to make a living. And it's not just  
20 about making a living, and it's not just about  
21 making a quick buck. It's about a healthy and  
22 thriving ocean, which we're going to need in the  
23 face of climate change.

24 My company may not fish for squid in this

1 particular area, but we certainly depend on the  
2 squid that spawn in that area. Squid spawn once a  
3 year and live less than a year. What's going to  
4 happen to that particular species when a generation  
5 of squid is subjected to construction? The effects  
6 of vibration, construction, pile-driving, there are  
7 studies out there that show negative effects on  
8 squid larvae and squid eggs.

9 I also want to point out that we're looking at  
10 this as piecemeal, company by company, slice of  
11 ocean by slice of ocean, and that's not how we  
12 should be looking at that. We should be looking at  
13 this safety issues, transit issues, ecosystem  
14 issues, biological issues, economic issues as a  
15 whole, as a whole continuous area. But we keep  
16 going down slice by slice, and that's not how an  
17 ecosystem works.

18 I want to make a quick comment, too, about the  
19 beginning of this meeting. It's very unfortunate  
20 that Orsted was trying to shut the industry out by  
21 not wanting to hear the industry opinions or their  
22 expert advice. We keep hearing about trust issues  
23 and transparency issues. I'm very involved in the  
24 wind energy process. And I know those are two very



1 big issues within this industry.

2 And at the beginning of this call, when there  
3 was -- you know, they prevented Tom Sproul from  
4 speaking about the economic impacts, which I really  
5 think he should have been allowed the time, so we  
6 can actually hear what we want to support and  
7 understand what we want to support. We can't truly  
8 comment on something if we don't truly understand  
9 it, and he should have been given that time.

10 In conclusion, I hear about how amazing this  
11 development is going to be for Rhode Island. But I  
12 want to remind people that Rhode Island is the  
13 squid capital of the world, the country, the  
14 East Coast. We bring in more squid on the  
15 East Coast than any other state. We even have  
16 calamari as the State appetizer. And I just want  
17 to remind people that we shouldn't be completely  
18 forgetting and pushing aside one industry for  
19 another. There's a whole successful industry down  
20 there in Point Judith, and I think people really  
21 need to consider that. Thank you.

22 CHAIRWOMAN CERVENKA: Thank you,  
23 Ms. Almeida.

24 MR. MOORE: Next, is Mike Theiler.

1           MR. THEILER: I thank you all for the  
2 opportunity to be able to speak tonight. I'm going  
3 to speak a little bit about my experience with  
4 Orsted.

5           Commercial fishermen operate in what we all  
6 know is a very hostile marine environment. It has  
7 unique challenges, which cause it to be labeled by  
8 many as the most dangerous profession. As a matter  
9 of fact, in the past couple of weeks we've lost a  
10 couple boats, one being out of Point Judith.

11           The chance for us to coexist and work with  
12 developers such as Orsted in the offshore wind  
13 industry provides an opportunity to upgrade our  
14 safety equipment, increase and accelerate our  
15 training, and enhance our education. Furthermore,  
16 the additional work provides an alternative revenue  
17 source and a vehicle to offer continued employment  
18 for crew and captains during slow periods,  
19 closures, or low seafood prices, like we saw last  
20 year. During the COVID crisis of 2020, one fishing  
21 vessel that would have most likely remained at the  
22 dock due to low prices, was able to work for  
23 150 alongside an offshore survey vessel for Orsted.

24           Several skippers and crewman took advantage of

1 offers to take safety training, captain's classes.  
2 A number received their 100-ton master's  
3 credentials. And a bridge simulator was opened to  
4 interested captains in Rhode Island by Orsted.  
5 Safety management systems, which are required by  
6 most developers, but this one in particular,  
7 addresses the health and safety and welfare of  
8 individuals working aboard these boats, on these  
9 projects. Issues such as proper rest, staffing,  
10 drug/alcohol policies, COVID policies,  
11 firefighting, all these are requirements.

12 Products, which have only been recently  
13 introduced in the U.S. through offshore wind,  
14 includes something like the Safety Folder, which is  
15 an interactive, online tool that assists in  
16 managing onboard safety drills, as well as any  
17 lifesaving devices.

18 There are currently very few requirements for  
19 safety equipment aboard commercial fishing vessels  
20 in the United States. However, Orsted requires  
21 international standards that have been -- and have  
22 been putting money where their mouth is. They've  
23 been incentivizing upgrades and vessel  
24 improvements. Paying for such items as search and

1 rescue transponders, which detects radar, enhances  
2 the visibility to assist in the search and rescue  
3 of a vessel in distress. MISW, which is marine  
4 small vessel -- small workboat inspections are  
5 becoming increasingly common and bring about a new  
6 awareness of any deficiencies that may be  
7 occurring. I think that the one thing that's  
8 overlooked here is these types of safety measures  
9 and processes wouldn't be taking place if it  
10 weren't for the developers.

11 Like I said, I'm in favor of continuing to  
12 work with Orsted. The alternatives to fossil fuel  
13 becoming a necessity, and one way to address these  
14 is through renewable wind energy. I think that the  
15 fishermen have an opportunity for coexistence with  
16 this industry, which will benefit all. Thank you.

17 CHAIRWOMAN CERVENKA: Thank you,  
18 Mr. Theiler.

19 MR. MOORE: Ian Parente is next.

20 MR. PARENTE: Hello, hello.

21 CHAIRWOMAN CERVENKA: Hi. We can hear  
22 you. We can't see you, but we can hear you.

23 MR. PARENTE: My name is Ian Parente. I'm  
24 a second generation, commercial fisherman fishing

1 out of Sakonnet Point in Little Compton,  
2 Rhode Island. I don't know where to start.

3 There's no one who's as concerned about  
4 renewable energy as we are. That being said, this  
5 is not green energy. Anyone stating that this is  
6 green energy is simply being paid to say so or is  
7 simply not educated on the subject.

8 I've been fishing in this area for my entire  
9 life. My family's been fishing in this area for  
10 the better part of a century. The devastation  
11 we've seen, just from the sonar work, has been  
12 something I cannot even comprehend. The fish have  
13 left when they're doing the work. They've not  
14 returned. The only debate is whether they've been  
15 killed by the sonar or they've just left and gone  
16 elsewhere. But regardless, spawning has stopped in  
17 this area. Everything has stopped.

18 I'd like, moving forward, anyone else to speak  
19 to please tell us how much time they've spent on  
20 Coxes Ledge, their experiences there, and some sort  
21 of relevance as to where their opinions drive from,  
22 other than a paycheck. Thank you very much.

23 CHAIRWOMAN CERVENKA: Thank you,  
24 Mr. Parente. Mr. Moore, are we at the end of the

1 list?

2 MR. MOORE: I believe so.

3 CHAIRWOMAN CERVENKA: Okay. All right.

4 So if that's the case, we'll close the public  
5 comment. We are going to give Ms. Desautel an  
6 opportunity to summarize in a more full -- fuller  
7 way her position or response to the staff addendum  
8 that was issued today.

9 MS. DESAUTEL: Thank you, Madam Chair.

10 And thank you for the additional time here to put  
11 together a summation of what Dr. Sproul would have  
12 testified to. Without repeating what I've already  
13 said, I'd like to add to that statement the  
14 following: In yesterday's meeting between the  
15 parties, Orsted finally disclosed a funding  
16 analysis showing how the \$5.2 million grows over  
17 time. This set off alarms for FAB members because  
18 the analysis showed that it takes 30 years for the  
19 5.2 million to grow into 12 million. So the 5.2 is  
20 only equal to 12 million at the very end. Like a  
21 saving bond. Further, the 5.2 million growing over  
22 time assumes that no claims are paid out of that  
23 amount. In other words, Orsted provided direct  
24 evidence that the 5.2 million is not enough to pay

1 the claims over the life of the project.

2 Dr. Sproul and I repeatedly emailed CRMC staff  
3 yesterday to explain these points, but it seems as  
4 though the points were maybe not understood.

5 Dr. Sproul also analyzed what happens if you try to  
6 pay \$12 million over 30 years using the  
7 \$5.2 million upfront.

8 Using Orsted's own funding analysis, the  
9 result is the fund goes bankrupt after 15 years and  
10 with only \$6.4 million of payments. Based on  
11 Dr. Sproul's analysis, the fund would need to start  
12 with 8.1 million in order to pay out 12 million  
13 over 30 years.

14 The FAB's objection to the recommendation is  
15 based on the economics and what I just said.  
16 That's it. It's based on the economics.  
17 5.2 million does not make the fisheries user groups  
18 whole.

19 We continue to respectfully request that the  
20 Council vote tonight to object to federal  
21 consistency based on the economics. Thank you.

22 CHAIRWOMAN CERVENKA: Thank you. Okay. I  
23 think before we get into our deliberations, I want  
24 to take a break, or I need to take a break, and

1 let's come back at eight. Thank you.

2 (BREAK TAKEN)

3 CHAIRWOMAN CERVENKA: Okay. I think we  
4 can go back on the record. We have everybody.

5 Mr. Boyd, I have a couple of questions for you  
6 coming out of a couple of the public comments and  
7 then Ms. Desautel's last comment. And one of them  
8 is that the findings, if you will, of the staff  
9 report don't -- the assertion that the findings  
10 don't match the conclusion or the recommendation.

11 And the way that I read your findings is that  
12 you determined that there -- this proposal --  
13 proposed wind farm will have an adverse impact,  
14 and, without avoidance mitigation, there would be  
15 inconsistency with the enforceable policies. So if  
16 you don't have any mitigation, you just have this  
17 adverse impact, then it doesn't meet enforceable  
18 policies.

19 Once you determined there was an adverse  
20 impact, you then had to look to see if there was  
21 appropriate avoidance of possible mitigation and  
22 what those components were. So your findings were,  
23 yes, adverse impact, but if you have appropriate  
24 mitigation, then it goes back into the conclusion



1 of consistent with enforceable standards; is that  
2 correct?

3 MR. BOYD: That's correct, Madam Chair.  
4 Actually, the goals of the Ocean SAMP are first to  
5 avoid impacts. When there are unavoidable impacts,  
6 they are to be minimized to the greatest extent.  
7 And then those impacts that cannot be avoided  
8 and/or minimized need to be mitigated.

9 And in this case, yes, we found that there  
10 will be adverse impacts from this project.  
11 Orsted/Eversource, the joint venture here, even  
12 clearly states in their mitigation proposal of  
13 September the 28th, recognizes the need for  
14 mitigation as a result of this project. That is  
15 why they put forth the mitigation proposal, and we  
16 spent many months going through the mitigation  
17 process to try and come to an acceptable mitigation  
18 proposal that included Orsted's original offer of  
19 compensatory mitigation.

20 So with the staff's proposed project  
21 minimization here for no more than 12 turbines out  
22 of a possible 15 that BOEM could approve, and the  
23 fact that the proposed mitigation that has been  
24 offered, which is \$12 million over 30 years, which

1 if paid in one lump sum is in today's dollar value  
2 \$5.2 million, with the combination of the  
3 compensatory mitigation offered by the developer,  
4 along with the staff recommended project  
5 minimization, including all the other mitigation  
6 measures that the developer has put forth, staff  
7 feels that this project would -- as conditionally  
8 recommended -- could meet concurrence. And that's  
9 why we're recommending a conditional concurrence,  
10 which would include the minimization alternative.

11 CHAIRWOMAN CERVENKA: And another -- this  
12 relates to what Ms. Desautel just talked about, as  
13 far as the present value of that \$12 million over  
14 30 years reduced to 5.2, are you comfortable that  
15 it's 5.2? Have you reviewed the information  
16 necessary for you to understand that's the  
17 appropriate number?

18 MR. BOYD: Well, as the executive director  
19 has stated previously, CRMC staff are not  
20 economists. We rely on information that is  
21 provided to us. And, in fact, the FAB's expert in  
22 this matter is Dr. Sproul, who also indicated that  
23 the net present value of \$12 million over 30 years,  
24 in his calculations, was \$5.6 million; however, he

1 was using a different -- a different value in  
2 determining a factor of the net present value than  
3 Orsted was. Orsted represented it was  
4 \$5.2 million. And in an email received by us just  
5 last night, I believe, probably around 8 p.m., that  
6 it was conceded that, indeed, it was \$5.2 million  
7 is the net present value of 12 million over 30  
8 years. That's our understanding of it.

9 CHAIRWOMAN CERVENKA: Okay. Thank you.  
10 Do others have questions for Mr. Boyd on the staff  
11 report, or we can open it up for general  
12 discussion.

13 MS. REYNOLDS: Yes, Madam Chair, I have a  
14 question for Mr. Boyd.

15 CHAIRWOMAN CERVENKA: Please.

16 MS. REYNOLDS: In the staff -- revised  
17 staff recommendation, it talks about the  
18 5.2 million being payable to the Rhode Island  
19 Fishermen's Viability Trust. And Attorney Main, in  
20 her response, she was concerned about that. After  
21 hearing that, do you have any -- anything that  
22 you'd like to change or adjust about that  
23 recommendation regarding the viability trust, or do  
24 you think that should stand the way that it is in

1 the recommendation?

2 MR. BOYD: The staff recommendation  
3 stands. We feel that the fishermen need to control  
4 their destiny in this matter, and they need to  
5 control the funds in terms of how they feel best  
6 the industry needs to be served by any mitigation  
7 monies. So the staff recommendation stands.

8 MS. REYNOLDS: Okay. Thank you.

9 CHAIRWOMAN CERVENKA: To follow up on  
10 that -- I'm sorry, Mr. Gomez -- but just to follow  
11 up on that issue, one of the concerns raised was  
12 just the release aspect. You know, once there is  
13 funding, would there be, you know, some confidence  
14 that there would be a release as opposed to if you  
15 had a claims process where you would get that  
16 release as you go along? This might be better  
17 directed towards Mr. DeSisto, but is that something  
18 that this Council can delegate to you and the staff  
19 to determine how you would effectuate something  
20 like that?

21 MR. DeSISTO: Yes. I think that's  
22 something that's going to have to be a part of the  
23 motion. Whatever the motion is for the Council, if  
24 the matter is to move forward with the

1 recommendation from staff, that that would be made  
2 part of the motion, to make sure that there is some  
3 type of a claims process that would be part of the  
4 mitigation, a stand-alone agreement like we had  
5 with Vineyard Wind.

6 CHAIRWOMAN CERVENKA: Okay. Thank you.  
7 Thank you. Mr. Gomez.

8 MR. GOMEZ: That was exactly what I was  
9 going to ask, how the trust would be set up and the  
10 issue of the claims process. So -- and I think  
11 what we just said was that that would be part of  
12 the attorney and staff process to -- as long as  
13 it's part of the motion, that there will be a  
14 claims process and a trust set up by the FAB that  
15 they would put the brick and mortar to it, if you  
16 will, I guess, and construct that -- construct that  
17 trust and the claims process. Is that correct,  
18 that staff and the legal will be drafting the how  
19 we do it -- how we do the trust and how we do the  
20 claims process?

21 MR. DeSISTO: Well, you know, the  
22 agreements that I averred to, that would be drafted  
23 by staff and legal counsel. I should point out  
24 that the trust instrument for Vineyard Wind has not

1 yet been drafted. That's something that would be  
2 under -- that's something that CRMC would have a  
3 review process on, but there is a procedure in the  
4 Vineyard Wind agreement as to how it will be  
5 constructed, including the hiring of an independent  
6 attorney to actually draft the trust document.  
7 That hasn't been done yet, but the agreements were,  
8 and that would be staff and attorney.

9 MR. GOMEZ: That's what I wanted to know.  
10 Thank you.

11 CHAIRWOMAN CERVENKA: Was that -- the  
12 requirements on how to construct it, it was in -- I  
13 think it's referred to as a side agreement in the  
14 Vineyard Wind. Is that where you found that, and  
15 then had the actual document itself would spring  
16 forth, you know, after closing and the necessity  
17 for a fund?

18 MR. DeSISTO: Correct. I prefer to refer  
19 to the agreements that were had with Vineyard Wind  
20 as stand-alone agreements.

21 CHAIRWOMAN CERVENKA: Stand-alone.

22 MR. DeSISTO: Yeah, that are separate and  
23 apart. Although, commonly, staff refers to it as a  
24 side agreement. But the plain fact of the matter

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1 is, on a legal basis, it's a stand-alone agreement,  
2 and that's what's being recommended here by staff  
3 for the conditional concurrence.

4 CHAIRWOMAN CERVENKA: And that stand-alone  
5 agreement would be something that would be put into  
6 place before the expiration of the stay agreement  
7 on the 22nd of this month?

8 MR. DeSISTO: That's correct, yes.

9 CHAIRWOMAN CERVENKA: Okay. But the  
10 actual trust document would come at a later time?

11 MR. DeSISTO: That's correct.

12 CHAIRWOMAN CERVENKA: Okay.

13 VICE CHAIRMAN COIA: Madam Chair,  
14 Ray Coia.

15 MR. DeSISTO: It would come separately.

16 CHAIRWOMAN CERVENKA: Thank you.

17 Mr. Coia.

18 VICE CHAIRMAN COIA: I have a question of  
19 Anthony. If Council was to support Attorney Main's  
20 request, as she referenced the 9/28 -- I take that  
21 to be a September 28 term sheet with a direct  
22 compensation fund, third-party administrator, and  
23 releases and the like, what would CRMC's role,  
24 staff or yours, be in effectuating that? The same

1 thing, similar to what staff is talking about with  
2 Vineyard?

3 MR. DeSISTO: That's correct, it would be  
4 the same thing.

5 VICE CHAIRMAN COIA: Okay.

6 MR. DeSISTO: We just have to draft the  
7 necessary agreements.

8 VICE CHAIRMAN COIA: Okay. Thank you.

9 CHAIRWOMAN CERVENKA: Any other questions,  
10 discussion from other Council members? Okay.  
11 Mr. Gagnon.

12 MR. GAGNON: Nothing exactly specific to  
13 this. It's been a difficult and uncomfortable  
14 process, and I know we have to go -- I believe we  
15 have to do this again for Revolution Wind, which is  
16 704 megawatts. And I guess if there's an  
17 opportunity to look forward and try to figure out  
18 how to come up with a compensation number based on  
19 some information that we've just experienced and  
20 maybe develop a model or a formula that would help  
21 address the uncertainty and try to get a more  
22 agreeable and fairer number down the road. If that  
23 can be possible, I think that's something we should  
24 work on. Because I don't know if -- if we've done



1 it about this one, but there's no really way to  
2 tell yet. As no turbines are out there yet, we  
3 don't really know what the effects are.

4 MR. BOYD: Madam Chair, if I can address  
5 Mr. Gagnon's, I guess, request there, if you will.  
6 In the course of our mitigation discussions with  
7 Orsted and the FAB over these many months, we did,  
8 in fact, suggest a methodology to come up with a  
9 mitigation -- a mitigation settlement here for the  
10 parties.

11 What we recommended was the use of the  
12 Vineyard Wind mitigation model that was set forth  
13 last year with Vineyard Wind putting forth a  
14 mitigation proposal with the State of Massachusetts  
15 for their coastal zone management consistency  
16 certification. You'll recall that there was  
17 difficult negotiations in the Vineyard Wind process  
18 with Rhode Island and Rhode Island fishermen.  
19 However, an agreement was reached after debating  
20 the value of the fisheries and things like the  
21 trust and the direct compensation issues, etc.

22 At any rate, there is a mitigation  
23 methodology that Vineyard Wind has produced that  
24 has been accepted by the State of Massachusetts

1 last year in May of 2020. And indeed,  
2 Vineyard Wind has recommended this exact  
3 methodology to the offshore wind industry, at least  
4 for the Southern New England area.

5 We would encourage Orsted to adopt that  
6 methodology. However, its use in the South Fork  
7 Wind matter, which we encourage Orsted to use, they  
8 rejected. And for, you know, all the reasons that  
9 they can lay forth, but they did reject the use of  
10 the Vineyard Wind methodology because they didn't  
11 agree to the assumptions that were being used in  
12 that methodology.

13 However, rather than reinventing the wheel, we  
14 think it is an appropriate way forward for future  
15 projects, and we would encourage Orsted to adopt  
16 the Vineyard Wind methodology put forth last year  
17 for this project coming forth, Revolution Wind, as  
18 well as for Sunrise Wind, Bay State Wind, and the  
19 other developers, Equinor and Mayflower, that have  
20 leases in this Southern New England wind energy  
21 area.

22 MR. GAGNON: A follow-up question. Is  
23 that, going forward, something that we can mandate,  
24 that a model that we think is fair and works be

1 used, so that it kind of cuts down on how much  
2 uncertainty and debate there is?

3 MR. BOYD: I don't believe we can mandate  
4 it. We can certainly recommend it to the developer  
5 and encourage them to use the methodology, in  
6 particular, if the Fishermen's Advisory Board in  
7 its advisory capacity to the CRMC recommends its  
8 uses in what they might consider a fair and  
9 equitable mitigation agreement. But we cannot  
10 mandate that any developer use this particular  
11 mitigation methodology.

12 MR. DeSISTO: I'd agree with that on a  
13 legal basis. That's not something that the Council  
14 or staff is authorized to do. Notwithstanding  
15 that, I do think for the next project there will  
16 definitely be -- there will be definitely changes  
17 in how the matter is handled by CRMC when it comes  
18 to these mitigation issues.

19 VICE CHAIRMAN COIA: Madam Chair,  
20 Ray Coia.

21 CHAIRWOMAN CERVENKA: Mr. Coia.

22 VICE CHAIRMAN COIA: I think each one  
23 stands alone, and what we have before us is the  
24 Orsted project, and we don't need to speculate

1 what's going to happen going forward or formulas to  
2 use. We have before us a \$5.2 million offer, and I  
3 think that's what we need to deal with tonight.

4 I understand what Ron's saying, but with  
5 uncertainty, speculation, and that, to come up with  
6 a plan, an equation, is not somewhere that we want  
7 to go.

8 CHAIRWOMAN CERVENKA: You both make fair  
9 points. I think Mr. Gagnon's point to continue to  
10 improve the process to fulfill the OSAMP  
11 objectives, you know, that's a good goal, but I  
12 understand we take this particular project on its  
13 own merits and based on what's happened so --  
14 Mr. Gomez.

15 MR. GOMEZ: Madam Chair.

16 CHAIRWOMAN CERVENKA: Yeah.

17 MR. GOMEZ: A couple of points I'd like to  
18 make. I have a real strong, very strong background  
19 in underwater acoustic noise, etc. And I would  
20 note that the acoustic noise, which has been  
21 discussed previously by some of our presenters, the  
22 acoustic noise and percussive effects associated  
23 with the construction is going to have the biggest  
24 effect I think in the long run.

1           And the idea of front-end loading, because I  
2           expect that's where the biggest amount of damage is  
3           going to occur to the fishermen, so the idea of  
4           front-end loading, i.e., the 5.2 million upfront as  
5           a present value of 30-year estimate is probably the  
6           best way.

7           And on the other end of this, looking at  
8           devices that have platforms that have been built  
9           and are out at sea, the 25 years, when we get to  
10          tear down on these, to me is highly unlikely. I  
11          think that their lives will be extended. I think  
12          there will be life-extension programs, and I think  
13          we'll likely exceed the demolition of these units.

14          Unless it's mandated that they have to come  
15          down, I'm willing to bet that if they're kept in  
16          decent condition -- although the State doesn't have  
17          a great record in bridges -- but if they're kept  
18          with reasonable maintenance on them, they're likely  
19          to exceed that, which is just another case for  
20          allowing much of the funding to come upfront. So  
21          just an observation, I think the front-end loading  
22          is the right way to go.

23                   CHAIRWOMAN CERVENKA: As I've stated  
24          earlier, I agree with you, Mr. Gomez, as far as the

1 front-end loading, because I think you'll have  
2 uneven impacts, and funding it at the outset has  
3 the best chance of addressing the more serious  
4 impacts when the impacts are occurring. So I agree  
5 with you.

6 MR. GOMEZ: Thank you. I agree, yes.

7 CHAIRWOMAN CERVENKA: Mr. Boyd.

8 MR. BOYD: Madam Chair, just a couple of  
9 points. I agree with Mr. Gomez. And that's  
10 precisely why staff -- rather than the proposed  
11 compensatory offer of 12 million over 30 years,  
12 staff is recommending that the net present value of  
13 \$5.2 million is paid in one, single lump sum within  
14 60 days of financial close. And that that entire  
15 amount, it's our recommendation, goes into the  
16 Rhode Island Fishermen's Viability Trust once it's  
17 established. And it will be established prior to  
18 the South Fork project of being approved by BOEM,  
19 which is highly likely, and then reaching financial  
20 close, which will most likely be in 2022. We fully  
21 expect, given Vineyard Wind's recent federal  
22 approval that they will reach financial close this  
23 summer and; therefore, the Fishermen's Viability  
24 Trust will be established this summer.

1           We are not recommending two separate funds  
2 like with Vineyard Wind, a direct compensation fund  
3 and the Rhode Island Fishing -- Rhode Island  
4 Fishermen's Viability Trust.

5           We're recommending for South Fork that all the  
6 money be put into the trust, and then the  
7 Fishermen's Trust deal with any claims made by  
8 fishermen who are in the South Fork area that are  
9 adversely impacted, not to be dealt with through a  
10 separate, direct compensation fund. Rather, the  
11 fishermen will be responsible for dealing with any  
12 and all claims of adverse impact. So that's our --  
13 that's our recommendation.

14           The other thing is there were a couple of  
15 comments, and I think it's important that we, as  
16 staff, address these. One was from Fred Mattera,  
17 who I have an incredible amount of respect for.  
18 I've worked with Fred over several years here,  
19 starting with Vineyard Wind. And Fred indicated  
20 that it was his position that David Kaiser of NOAA  
21 had undue influence on the CRMC recommendation  
22 here.

23           I want to stress, in no uncertain terms, that  
24 David Kaiser had no influence on the CRMC staff

1 recommendation here. CRMC staff did consult with  
2 David Kaiser because he is a federal consistency  
3 expert in NOAA and has worked for NOAA for over  
4 30 years.

5 . When we developed our recommendation for a  
6 conditional concurrence, we consulted with  
7 David Kaiser as to how we could put forth that  
8 conditional concurrence to make sure that it would  
9 indeed meet the federal requirements. But  
10 David Kaiser did not tell us that we had to do  
11 "X" or we had to do "Y" in terms of putting forth  
12 our recommendation. So I just wanted to clarify  
13 that, that NOAA did not dictate what the CRMC staff  
14 recommendation would be. Plain and simple.

15 The other comment made by Katie Almeida of  
16 Town Dock and, again, I have a great deal of  
17 respect for Katie. And I think she brought up an  
18 excellent point here, that we should not be  
19 evaluating these projects on a case-by-case basis  
20 but rather look at them all holistically.  
21 Wonderful idea. It's something we've been  
22 advocating for at the federal government level.

23 The problem is we are subject to the  
24 regulatory process of the federal government. So



1 when a project is ripe -- in other words, a  
2 developer puts forth a construction and operation  
3 plan, BOEM then approves that construction and  
4 operation plan to move forward through the  
5 environmental impact statement process -- NOAA  
6 issues a notice of intent to begin the draft  
7 environmental impact statement. That is when the  
8 states are filed, the consistency certification by  
9 the developer, and our CZMA federal consistency  
10 review begins. That is mandated by the federal  
11 regulations.

12 The State has no say in that matter as to the  
13 timing or the scope of the project, other than what  
14 BOEM puts forth in the notice of intent. So I just  
15 wanted to clarify those two points on the record.  
16 And I'm happy to answer any other questions.

17 CHAIRWOMAN CERVENKA: Thank you, Mr. Boyd.  
18 Any questions from Council members on what Mr. Boyd  
19 just said or comments? I just -- I support the  
20 5.2 million being payable to the Rhode Island  
21 Fishermen's Viability Trust because I worry about a  
22 third-party entity making determinations for the  
23 fishermen that's akin to an insurance process,  
24 which, you know, has -- you have to have certain

1 pieces and paper support and check off the boxes,  
2 and if you don't meet those, you can be denied. So  
3 I do worry about a third-party claims process a  
4 lot. I would rather it be the fishermen that are  
5 in control of those claims.

6 I also understand the developer's concern  
7 about a release -- releases. And as Mr. DeSisto  
8 spoke to earlier, that can be delegated to him and  
9 the staff and to figure that out between tonight  
10 and the 22nd through the stand-alone agreement.  
11 Correct, Mr. DeSisto?

12 MR. DeSISTO: That's correct, yes.

13 CHAIRWOMAN CERVENKA: I just note that  
14 Ms. Main is raising her hand. I know we're in  
15 deliberations. Mr. DeSisto, how do you advise?

16 MR. DeSISTO: You know, at this point, I  
17 think you're in deliberations, you have to go  
18 forward.

19 CHAIRWOMAN CERVENKA: Okay.

20 MR. DeSISTO: We understand what the  
21 arguments are -- I do. And I do think that the  
22 concerns -- if, by the way, the vote is not to  
23 object, if the vote is for the conditional  
24 concurrence, that the concerns of the developer can

1 be addressed during the agreement process.

2 CHAIRWOMAN CERVENKA: Okay. Thank you.  
3 Mr. Boyd.

4 MR. BOYD: Madam Chair, just one other  
5 clarification that Attorney Main made earlier. She  
6 had indicated that Orsted had been in contact with  
7 BOEM -- again, they're the lead federal permitting  
8 agency for offshore wind projects -- with regard to  
9 the CRMC staff proposed conditional concurrence.  
10 And our recommendation to the Council tonight as  
11 part of the -- number 2, the conditional  
12 concurrence, is that the Council require the  
13 developer to file a letter with BOEM modifying its  
14 project and agreeing to the State's condition  
15 requiring the project minimization alternative  
16 pursuant to the federal consistency rules and  
17 regulations.

18 Attorney Main pointed to that exact federal  
19 regulation at 15 CFR 930.4 Subsection A-2. That is  
20 under the conditional concurrence section of the  
21 federal consistency regulations. And basically,  
22 what it says is that if a state issues a  
23 conditional concurrence -- and I can read that  
24 actual subsection -- the federal agency for

1 Subpart C, applicant for Parts D and I, person for  
2 Subpart E -- and that, by the way, is where  
3 offshore wind comes in, under Subpart E -- or  
4 applicant agency for Subpart F shall modify the  
5 applicable plan, project proposal, or application  
6 to the federal agency pursuant to the state  
7 agency's condition.

8 So what we're merely asking for here is that  
9 Orsted submit a letter to BOEM indicating that they  
10 agree with the State's condition -- and, again,  
11 this is for the project minimization -- a maximum  
12 of 12 turbine foundations, not 15 that BOEM could  
13 approve. And therefore, this letter to BOEM, from  
14 the developer, acknowledging that it agrees with  
15 the State's condition.

16 We're not asking the developer to submit a  
17 modification of their construction and operation  
18 plan. Merely a letter acknowledging that they  
19 agree with the state's condition in this matter.  
20 That's all we're asking for, and we're not asking  
21 for a change to the construction and operation  
22 plan.

23 CHAIRWOMAN CERVENKA: Thank you for that  
24 clarification. Ms. Main, I see you're raising your

1 hand again, but we've already been advised by  
2 Mr. DeSisto that we're not to take your comment in  
3 the middle of deliberations.

4 MS. MAIN: You know, you went right into  
5 deliberations after public comment without giving  
6 an opportunity. You haven't made a motion yet. I  
7 ask for the accommodation to make two brief  
8 statements. They're important.

9 MS. DESAUTEL: Yeah, and I object to that.  
10 There's a procedure here that Attorney DeSisto has  
11 already weighed in on, and we're in the middle of  
12 deliberating. It's not appropriate.

13 MR. DeSISTO: That's the problem you run  
14 into. You get the back and forth on this. And I  
15 think -- I think you've just got to go forward on  
16 it. And you know what, I'm going to make an  
17 educated guess here that the Council is aware of  
18 all of the issues. And I know there's been  
19 statements made.

20 I don't think either party is entirely happy  
21 with what the staff has had to say on this thing,  
22 but I do think it's time to just get going on the  
23 motion on this thing.

24 VICE CHAIRMAN COIA: Madam Chair, if the

1 timing is right, Ray Coia would like to make a  
2 motion.

3 CHAIRWOMAN CERVENKA: Yes, Mr. Coia.

4 VICE CHAIRMAN COIA: Am I recognized for a  
5 motion?

6 CHAIRWOMAN CERVENKA: You are recognized.

7 VICE CHAIRMAN COIA: Madam Chair, based  
8 upon the record before this Council, which includes  
9 the application materials; testimony, both lay and  
10 expert, as well as the demonstrative evidence put  
11 forth; and taking into consideration the opinions  
12 of CRMC staff, who participated in over 30 meetings  
13 in an effort to effectuate a balanced review  
14 process, weighing coexisting uses and utilizing the  
15 best information CRMC has been provided with, I  
16 move to accept and approve the finding of  
17 concurrence of consistency with the minimization  
18 from 15 to 12 turbines; the compensatory mitigation  
19 of \$5.2 million, as offered by the developer, to be  
20 paid and set up according to their September 28th  
21 term sheet as referenced with a direct compensation  
22 fund where claims are handled by a third-party  
23 administrator, paid out of an escrow account, and  
24 duly executed releases afforded to them when claims

1 are paid, with staff and our counsel being part of  
2 that process, and not requiring that the developer  
3 notify BOEM of changes to the project as requested.  
4 That's my motion.

5 MR. SAHAGIAN: Madam Chair,  
6 Jerry Sahagian. I'd second the motion.

7 CHAIRWOMAN CERVENKA: Okay.

8 MR. DeSISTO: Just for clarification  
9 purposes, it's a conditional concurrence of  
10 consistency based on the conditions that you have  
11 in your motion, correct?

12 VICE CHAIRMAN COIA: That the minimization  
13 from 15 to 12 turbines, which they've agreed upon,  
14 and the \$5.2 million payable in one lump sum as  
15 offered by the developer in the fund as previously  
16 enumerated.

17 MR. DeSISTO: A further clarification,  
18 these conditions that you have, particularly for  
19 the monetary compensation, would be reduced to an  
20 agreement that would be separate and apart from the  
21 decision of the Council?

22 VICE CHAIRMAN COIA: Yes, as previously  
23 discussed. Yes.

24 MR. DeSISTO: Thank you.

1 VICE CHAIRMAN COIA: You're welcome.

2 CHAIRWOMAN CERVENKA: Okay. Discussion on  
3 the pending motion?

4 MR. SAHAGIAN: Madam Chair.

5 CHAIRWOMAN CERVENKA: Yes, Mr. Sahagian.

6 MR. SAHAGIAN: Jerry Sahagian. As a  
7 Council, I think we have to be mindful of our  
8 limited scope and jurisdiction on this matter. And  
9 we are here to determine if it meets federal  
10 consistency. And based on the evidence, the  
11 record, and all the comments from staff, the  
12 applicants, and the objectors, it's clear that it  
13 does. So I will be voting in favor of this motion.  
14 Thank you.

15 CHAIRWOMAN CERVENKA: Thank you. Any  
16 other comments, discussion?

17 MR. GAGNON: One question.

18 CHAIRWOMAN CERVENKA: Yes, Mr. Gagnon.

19 MR. GAGNON: If we remove the requirement  
20 to have the developer file a letter with BOEM, does  
21 this consistency -- this conditional concurrence  
22 become part of BOEM's record anyway, or how does  
23 BOEM view the conditional concurrence?

24 CHAIRWOMAN CERVENKA: Mr. Boyd or



1 Mr. DeSisto, can you address that?

2 MR. DeSISTO: Well, the concurrence is  
3 based on these conditions. If there is an  
4 objection by the developer, the concurrence is  
5 turned into an objection, and they would take an  
6 appeal on that basis. So if they don't take  
7 an objection -- if they don't object, the  
8 conditions are -- would be part of the approval and  
9 the consistency, and that would be incorporated by  
10 reference with BOEM. And I do know that there was  
11 correspondence between the developer and BOEM on  
12 this issue, where the developer acknowledged that  
13 they would be reducing the amount of the turbines  
14 from 12 -- from 15 to 12.

15 VICE CHAIRMAN COIA: Tony -- Ray Coia.

16 MR. DeSISTO: Yes.

17 VICE CHAIRMAN COIA: Is Ray Coia  
18 recognized? So that's not part of my motion, that  
19 it's incorporated, that the condition concurrence,  
20 with everything that's set forth in the addendum  
21 today. Because that calls for a letter. So I'm  
22 culling out that, and I'm not requiring them to put  
23 money to the Fishermen's Viability Trust.

24 MR. DeSISTO: Correct. In lieu of the

1 requirement of the letter, one of your conditions  
2 is that -- unless I'm wrong -- that the project  
3 would be 12 turbines instead of 15.

4 VICE CHAIRMAN COIA: Correct.

5 MR. DeSISTO: So, basically, what I'm  
6 saying is, is the fact that that is a part of your  
7 motion in the decision, renders the fact of the  
8 letter moot. I think that's the purpose of your  
9 motion.

10 VICE CHAIRMAN COIA: Correct.

11 CHAIRWOMAN CERVENKA: I would ask on that  
12 point, Mr. Boyd, is that -- the letter to BOEM, is  
13 that somewhat duplicative of the condition that the  
14 turbines would be reduced from 12 -- from 15 to 12?

15 MR. BOYD: Well, as Attorney DeSisto  
16 pointed out, with the State, if we were to issue a  
17 conditional concurrence that requires no more than  
18 12 turbine positions to be approved as part of this  
19 project, the applicant can choose to object to  
20 that. And, in fact, if they do not agree with that  
21 condition, they would have to treat the conditional  
22 concurrence as an objection and appeal it to the  
23 Department of Commerce. Our recommendation was  
24 strictly for acknowledgment in writing to BOEM by

1 the developer to acknowledge the State's condition,  
2 in that they agreed with that condition, so that we  
3 would have that in the file and be able to attach  
4 that with any decision moving forward. I'll defer  
5 to legal counsel.

6 CHAIRWOMAN CERVENKA: So my view on the  
7 pending motion, I don't agree with the funding  
8 mechanism as has been proposed by the developer. I  
9 agree with the funding mechanism that has been  
10 recommended by our staff. I think that is integral  
11 to his conclusion that this project will meet  
12 enforceable policies by placing control of these  
13 funds into the Fishermen's Trust controlled by the  
14 fishermen. We've -- we've been assured that the  
15 releases could be figured out in the stand-alone  
16 agreement, so I don't -- I don't think that that --  
17 going against our staff recommendation on that  
18 element of this decision will actually meet the  
19 enforceable policies. So I can't support the  
20 pending motion, unless that's amended.

21 Although, I was prepared, I want you to know,  
22 to support a motion that would be in accordance  
23 with what is recommended by our staff -- our  
24 conditional concurrence recommended by staff.

1 Mr. Gagnon.

2 MR. GAGNON: I agree with that. I can  
3 live without the requirement for the letter, but I  
4 support the staff recommendation for the funding  
5 also.

6 MR. SAHAGIAN: Madam Chair.

7 CHAIRWOMAN CERVENKA: Mr. Sahagian.

8 MR. SAHAGIAN: So my concern is as a  
9 Council, once we vote on it, we lose control. And  
10 I think it's important that, you know, everyone  
11 here, okay, listen to all the testimony, and we  
12 should be the ones making the decision on what  
13 happens in the future.

14 And I mean, I'll give you an example. Just,  
15 you know, last week the majority of the board voted  
16 to, you know, end -- I shouldn't say end -- but to  
17 stop taking evidence and to let the applicants rest  
18 their case. The majority of the Council voted.  
19 Then, you know, I find out later on that that  
20 didn't happen. So my concern is we should vote and  
21 we should -- we should have a say on the outcome of  
22 this matter. So that's why I will be supporting  
23 Mr. Coia's motion as submitted. Thank you.

24 CHAIRWOMAN CERVENKA: Any other comments,

1 discussion on the pending motion?

2 (NO RESPONSE)

3 CHAIRWOMAN CERVENKA: Okay. If none, then  
4 I will do a roll call. Starting with Mr. Coia.

5 VICE CHAIRMAN COIA: Ray Coia votes aye on  
6 the motion.

7 CHAIRWOMAN CERVENKA: Okay. Don Gomez?

8 MR. GOMEZ: Gomez votes aye.

9 CHAIRWOMAN CERVENKA: Jerry Sahagian?

10 MR. SAHAGIAN: Sahagian, aye.

11 CHAIRWOMAN CERVENKA: Patricia Reynolds?

12 MS. REYNOLDS: Reynolds, aye.

13 CHAIRWOMAN CERVENKA: Ron Gagnon?

14 MR. GAGNON: Ron Gagnon, nay.

15 CHAIRWOMAN CERVENKA: Lindsay McGovern?

16 MS. MCGOVERN: Lindsay McGovern, aye.

17 CHAIRWOMAN CERVENKA: And myself,

18 Jennifer Cervenka, nay.

19 The motion to approve as set forth by  
20 Mr. Coia's motion passes, and the additional work  
21 will need to be done in the time between tonight  
22 and June 22nd. Is there anything more from staff,  
23 Mr. DeSisto, that needs to be said?

24 MR. DeSISTO: No.

Semi-Monthly Meeting - June 2, 2021

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1 CHAIRWOMAN CERVENKA: Okay. Then I will  
2 make a motion to adjourn.

3 VICE CHAIRMAN COIA: Ray Coia seconds it.

4 CHAIRWOMAN CERVENKA: Okay. All those in  
5 favor?

6 (WHEREUPON A VOICE VOTE WAS TAKEN/  
7 MOTION PASSED)

8 CHAIRWOMAN CERVENKA: Thank you everyone.  
9 Thank you.

10 (MEETING ADJOURNED AT 8:46 P.M.)

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C E R T I F I C A T E

I, Cindy M. Tangney, a Commissioner in and for the State of Rhode Island, hereby certify that the foregoing pages are a true and accurate record of my stenographic notes that were reduced to print through computer-aided transcription.

In witness whereof, I hereunto set my hand this 5th day of June, 2021.

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CINDY M. TANGNEY, RMR

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